

1 HEINZ BINDER, #87908
2 ROBERT G. HARRIS, #124678
3 DAVID B. RAO, #103147
4 ROYA SHAKOORI, #236383
5 Binder & Malter, LLP
6 2775 Park Avenue
7 Santa Clara, CA 95050
8 Telephone: (408)295-1700
9 Facsimile: (408) 295-1531

10 Attorneys for Debtor and Debtor In
11 Possession Technology Properties Limited, LLC

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, DIVISION 5

In re

TECHNOLOGY PROPERTIES LIMITED,
LLC,

Debtor.

Case No: 13-51589 SLJ

Chapter 11

NO HEARING REQUIRED

**EX PARTE APPLICATION TO EXPAND SCOPE OF EMPLOYMENT OF AGILITY IP
LAW, LLP AS SPECIAL COUNSEL**

TO THE HONORABLE STEPHEN L. JOHNSON, UNITED STATES BANKRUPTCY
JUDGE:

The Ex Parte Application of TECHNOLOGY PROPERTIES LIMITED, LLC, a
Delaware Limited Liability Company, the above-captioned Debtor ("TPL") to expand the scope
of Agility IP Law, LLP (hereinafter "Special Counsel") employment, respectfully represents as
follows:

1. On March 20, 2013 (the "Petition Date"), TPL filed a Voluntary Petition under
Chapter 11 with the Clerk of the above-entitled Court. No trustee has been appointed and TPL is
a debtor-in-possession pursuant to 11 U.S.C. §§1107 and 1108.

1 2. An Ex Parte Application for Employment of Agility IP Law, LLP (“Application”)
2 was filed and entered on the Court’s docket on April 19, 2013. The Order approving the
3 Application was entered on or about May 5, 2013.

4 3. TPL’s Application sought to approve professional services to be rendered by
5 Special Counsel including, but not limited to, the following:

6 (a) To continue to provide advice and representation to TPL regarding litigation
7 matters, including:

8 (i) ITC Investigation No. 337-TA-807, in which TPL is asserting patent
9 infringement of the CORE Flash patent portfolio against manufacturers and importers of
10 digital photo frames;

11 (ii) ITC Investigation No. 337-TA-841, in which TPL is asserting patent
12 infringement of the CORE Flash patent portfolio against manufacturers and importers of
13 computers and peripheral devices;

14 (iii) Case Nos. 5:08-cv-00877 and -882 PSG (related cases) in the U.S.
15 District Court for the Northern District of California, in which TPL is asserting claims for
16 patent infringement of its Moore microprocessor portfolio (“MMP”) patents against Acer,
17 Inc., Acer America Corporation and Gateway, Inc. (collectively “Acer”) (the “877 Case”)
18 and against HTC Corporation and HTC America, Inc. (collectively “HTC”) (the “882
19 Case”); and,
20

21 (iv) U.S. International Trade Commission (ITC) Investigation No. 337-
22 TA-853 (“the 853 Investigation”), in which TPL, together with Phoenix Digital
23 Solutions, LLC (“PDS”) is asserting patent infringement of one patent of the MMP patent
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1 portfolio against manufacturers and importers of wireless consumer electronic devices,
2 and related litigation against the same parties in the Northern District of California.

3 (b) To continue to investigate patent infringement claims and recover all
4 damages and compensation to which TPL may be entitled from the unlicensed use of the MMP
5 and CORE Flash patent portfolios, including but not limited to investigation of potential
6 infringers, employing consultants and expert witnesses, instituting legal proceedings, and
7 preparing for and proceeding to trial.

8
9 4. TPL wishes to expand the scope of Special Counsel's employment to include any
10 future appeals of cases where it has represented TPL. Currently TPL knows of one appeal it
11 wishes to have Special Counsel represent TPL in, the Federal Circuit appeal(s) following the trial
12 and post-judgment motions in the case of *HTC Corporation et al. v. Technology Properties*
13 *Limited et al.*, (N.D. Cal. Case No. 5:08-cv-00882-PSG), ("HTC Appeal").

14 5. All terms of employment shall be according to Agility IP Law, LLP's March 10,
15 2014 correspondence, attached to the Declaration of James C. Otteson as Exhibit "A".¹ Special
16 Counsel's employment shall be approved as of March 10, 2014. Unlike Special Counsel's prior
17 employment, employment of Special Counsel to represent TPL in any appeal shall be
18 compensated hourly rather than via contingency agreement and according to 11 U.S.C. section
19 327(e). It is anticipated that the following attorneys and paralegals will be primarily utilized by
20 Special Counsel in rendering services to TPL at the following hourly rates:

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25
26 ¹ PDS, along with TPL, is a party to the March 10, 2014 fee agreement described herein.

<u>Attorney Name</u>	<u>Attorney Hourly Rate</u>
James C. Otteson	\$495.00
David A. Caine	\$450.00
Thomas T. Carmack	\$450.00
Philip Marsh	\$450.00
Brandon Baum	\$450.00
David Lansky	\$425.00
Jed Phillips	\$375.00
Vinh Pham	\$350.00
Michael Nguyen	\$325.00

<u>Legal Staff</u>	<u>Legal Staff Hourly Rate</u>
Vincent Yee	\$225.00
Susan Kalra	\$195.00
Gene Lee	\$195.00
Sherri Mills	\$195.00
Ana Villanueva	\$195.00
Tracey Nero	\$195.00

6. Notwithstanding the terms of the engagement letter, Special Counsel agrees that while TPL's Chapter 11 case is pending:

- a. The arbitration clause is not enforceable and is waived;
- b. Cost reimbursements and travel shall be according to the Guidelines promulgated by this Court;
- c. To the extent that any other provision of the agreement is contrary to the Guidelines promulgated by this Court, the Guidelines shall control.

7. TPL has provided Special Counsel with a copy of the Guidelines promulgated by this Court.

WHEREFORE, TPL respectfully request that the Court enter an order authorizing the expansion of Special Counsel's employment as of March 10, 2014 to include representation in appeal cases and specifically, the HTC Appeal.

1 Dated: April 16, 2014

TECHNOLOGY PROPERTIES LIMITED, LLC

2 By: /s/ Daniel E. Leckrone
3 Daniel E. Leckrone
4 Responsible Individual for TPL
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, DIVISION 5

In re

TECHNOLOGY PROPERTIES LIMITED,
LLC,

Debtor.

Case No: 13-51589 SLJ

Chapter 11

NO HEARING REQUIRED

DECLARATION OF JAMES C. OTTESON IN SUPPORT OF EX PARTE
APPLICATION TO EXPAND SCOPE OF EMPLOYMENT OF AGILITY IP LAW, LLP
AS SPECIAL COUNSEL

I, James C. Otteson, hereby declare:

1. I am a partner with Agility IP Law, LLP, Special Counsel herein ("Special Counsel") to TECHNOLOGY PROPERTIES LIMITED, LLC, a Delaware Limited Liability Company, the above-captioned Debtor ("TPL"). I am licensed to practice in the State of California and admitted to practice before the Northern District of California. I make this Declaration in support of the Ex Parte Application To Expand Scope of Employment of Agility IP Law, LLP as Special Counsel (the "Application").

1 2. I have personal knowledge of the matters contained herein, except as to those
2 matters alleged upon information and belief and as to those matters I believe them to be true. If
3 called upon as a witness and I could and would testify as follows:

4 3. TPL's Application sought to approve professional services to be rendered by
5 Special Counsel including, but not limited to, the following:

6 (a) To continue to provide advice and representation to TPL regarding litigation
7 matters, including:

8 (i) ITC Investigation No. 337-TA-807, in which TPL is asserting patent
9 infringement of the CORE Flash patent portfolio against manufacturers and importers of
10 digital photo frames;

11 (ii) ITC Investigation No. 337-TA-841, in which TPL is asserting patent
12 infringement of the CORE Flash patent portfolio against manufacturers and importers of
13 computers and peripheral devices;

14 (iii) Case Nos. 5:08-cv-00877 and -882 PSG (related cases) in the U.S.
15 District Court for the Northern District of California, in which TPL is asserting claims for
16 patent infringement of its Moore microprocessor portfolio ("MMP") patents against Acer,
17 Inc., Acer America Corporation and Gateway, Inc. (collectively "Acer") (the "877 Case")
18 and against HTC Corporation and HTC America, Inc. (collectively "HTC") (the "882
19 Case"); and,
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21 (iv) U.S. International Trade Commission (ITC) Investigation No. 337-
22 TA-853 ("the 853 Investigation"), in which TPL, together with Phoenix Digital
23 Solutions, LLC ("PDS") is asserting patent infringement of one patent of the MMP patent
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1 portfolio against manufacturers and importers of wireless consumer electronic devices,
2 and related litigation against the same parties in the Northern District of California.

3 (b) To continue to investigate patent infringement claims and recover all
4 damages and compensation to which TPL may be entitled from the unlicensed use of the MMP
5 and CORE Flash patent portfolios, including but not limited to investigation of potential
6 infringers, employing consultants and expert witnesses, instituting legal proceedings, and
7 preparing for and proceeding to trial.

8
9 4. I am informed and believe that TPL wishes to expand the scope of Special
10 Counsel's employment to include any future appeals of cases where it has represented TPL.
11 Currently TPL knows of one appeal it wishes to have Special Counsel represent TPL in, the
12 Federal Circuit appeal(s) following the trial and post-judgment motions in the case of *HTC*
13 *Corporation et al. v. Technology Properties Limited et al.*, (N.D. Cal. Case No. 5:08-cv-00882-
14 PSG), ("HTC Appeal").

15 5. All terms of employment shall be according to Agility IP Law, LLP's March 10,
16 2014 correspondence, attached hereto as Exhibit "A".¹ Special Counsel's employment shall be
17 approved as of March 10, 2014. Unlike Special Counsel's prior employment, employment of
18 Special Counsel to represent TPL in any appeal shall be compensated hourly rather than via
19 contingency agreement. I understand that employment and compensation shall be according to
20 11 U.S.C. section 327(e).

21
22 6. It is anticipated that the following attorneys and paralegals will be primarily
23 utilized by Special Counsel in rendering services to TPL at the following hourly rates:

24
25
26 ¹ PDS, along with TPL, is a party to the March 10, 2014 fee agreement described herein.

<u>Attorney Name</u>	<u>Attorney Hourly Rate</u>
James C. Otteson	\$495.00
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Susan Kalra	\$195.00
Gene Lee	\$195.00
Sherri Mills	\$195.00
Ana Villanueva	\$195.00
Tracey Nero	\$195.00

7. I am further informed that notwithstanding the terms of the engagement letter, Special Counsel agrees that while TPL's Chapter 11 case is pending:

- a. The arbitration clause is not enforceable and is waived;
- b. Cost reimbursements and travel shall be according to the Guidelines promulgated by this Court;
- c. To the extent that any other provision of the agreement is contrary to the Guidelines promulgated by this Court, the Guidelines shall control.

8. TPL has provided Special Counsel with a copy of the Guidelines promulgated by this Court.

Executed on April 17, 2014 in Menlo Park, California. I declare under penalty of perjury that the foregoing is true and correct.

/s/ James C. Otteson
James C. Otteson



James C. Otteson
jim@agilityiplaw.com

March 10, 2014

Carl Johnson
Patriot Scientific Corporation
701 Palomar Airport Rd, Suite 170
Carlsbad, CA 92011-1045

Dan Leckrone
Technologies Properties Limited
20883 Stevens Creek Boulevard, Suite 100
Cupertino, California 95014

Re: Agility IP Law, LLP's representation of Phoenix Digital Solutions, Patriot Scientific Corporation and Technology Properties Limited in the Federal Circuit appeal of *HTC Corporation, et al., v. Technology Properties Limited, et al.* (Fed. Cir. Case No. 14-1076)

Dear Carl and Dan:

We are pleased to have been retained by Phoenix Digital Solutions, Patriot Scientific Corporation and Technology Properties Limited ("PDS," "PTSC" and "TPL"; collectively, "Clients") to represent Clients in the Federal Circuit appeal(s) following the trial and post-judgment motions in the case of *HTC Corporation et al. v. Technology Properties Limited et al.*, (N.D. Cal. Case No. 5:08-cv-00882-PSG) ("Legal Services" or "Representation").

This letter ("Agreement") describes the basis on which Agility IP Law, LLP ("Agility") will provide Legal Services to the Clients and bill for those Legal Services. We believe that it is beneficial to the attorney-client relationship that you have a clear understanding of our billing and engagement policies and procedures. In the future, if you request us to perform additional legal services on matters other than the Legal Services described above, then, unless a separate engagement has been entered into with respect to such additional legal services, it is understood that those future legal services or matters will be provided by us under the same terms and conditions described herein at the billing rates and policies in effect at the times such services are performed.

1. Professional Undertaking

We will do our utmost to serve Clients effectively. Our goals are to provide Clients with legal services in an effective and efficient manner, and to respond to Clients inquiries promptly. If Clients have any questions or concerns at any time, please contact me.

Carl Johnson & Dan Leckrone
March 10, 2014
Page 2

2. Conditions

This Agreement will not take effect, and Agility will have no obligation to provide the Legal Services, until Clients return a signed copy of this Agreement. If this Agreement is not signed and returned promptly, Agility has no obligation to provide the services requested, and if Agility has begun work, it may cease such work.

3. Scope of Services

Clients are hiring Agility to represent it solely in connection with the above-described Representation. Agility does not undertake any obligation to represent Clients with regard to any other matter. Agility will provide those legal services reasonably required to represent Clients in the matter. Agility will take reasonable steps to keep Clients informed of progress and to respond to Client inquiries. Under this engagement, Agility will only represent Clients in the Federal Circuit appeal(s) following the trial and post-judgment motions in the case of *HTC Corporation et al. v. Technology Properties Limited et al.*, (N.D. Cal. Case No. 5:08-cv-00882-PSG); the representation will include (but may not be limited to) Federal Circuit Case No. 14-1076. Agility will not represent Clients after the Federal Circuit appeal or in any other matters absent a different written agreement.

Agility represents the Clients in the Representation, and not any of their affiliates, owners, or agents. By reason of this representation, Agility does not represent any of Clients' parents, subsidiaries, employees, officers, directors, or shareholders, or commonly owned corporations, partnerships or other entities. Clients understand and agree that Agility retains the right to be adverse to such other entities or persons without obtaining Clients' further consent.

4. Clients' Duties

Clients agree to be truthful with Agility, cooperate and promptly respond to requests for information, keep Agility informed of developments, abide by this Agreement, pay Agility's bills and bills for third party experts, consultants and investigators on time, and keep Agility advised of Clients' addresses, telephone numbers, and whereabouts. Clients understand that the failure to perform any of these duties in a timely manner will result in a breakdown of the attorney-client relationship sufficient to terminate the Representation.

5. Confidentiality

Clients understand it is in Clients' best interest to preserve the confidentiality of all communications between Agility and Clients. If Clients disclose such communications to third parties, Clients jeopardize the privilege. Therefore, Agility advises Clients not to disclose their communications with Agility to third parties.

Carl Johnson & Dan Leckrone

March 10, 2014

Page 3

6. Staffing and Billing Practices

Clients agree to pay all fees for legal services and all costs incurred at the prevailing hourly rates of Agility for attorneys, legal assistants, and case clerks; rates are subject to change as discussed in the attached **Statement of Billing Policy and Schedule of Rates**, incorporated herein. In the beginning, the attorneys assigned to this matter will be: (see attached Billing Rate). Other attorneys and support staff may be staffed on the case later, depending on the needs of the case. Agility will provide Clients with a monthly invoice with all of the fees and costs from all attorneys and other timekeepers at Agility.

7. Costs and Other Charges

In addition to professional fees, Agility charges for expense disbursements to third parties and other costs incurred in connection with Agility's services, as discussed in the attached **Statement of Billing Policy and Schedule of Rates**, incorporated herein.

8. Experts, Consultants and Investigators

To aid in the preparation or presentation of Clients' case, it may become necessary to hire expert witnesses, consultants or investigators. Clients agree to pay for such services. In its discretion, Agility may select and retain such experts, consultants or investigators to consult with Agility, provide expert opinions, and/or testify at deposition or trial regarding this matter, but Agility will consult in advance with Clients before doing so. To protect the confidentiality and/or privilege of their work, and to enable Agility to represent Clients effectively, the experts, consultants or investigators will report to Agility, but not directly to the Client.

9. Lien

Clients hereby grant Agility a lien on any and all claims or causes of action that are the subject of Agility's Representation under this Agreement. Agility's lien will be for any sums owing to Agility at the conclusion or termination of its services. The lien will attach to any recovery Clients may obtain, whether by arbitration award, judgment, settlement, or otherwise.

10. Insurance

Clients agree that regardless of any insurance coverage and/or any insurer's agreement to pay for all or part of Agility's fees and costs incurred during the Representation, Clients remain responsible for payment of Agility's fees and costs in accordance with this Agreement. Clients authorize Agility to accept an insurer's payment of its fees and/or costs incurred in the Representation, and Agility will credit any such payments against the amount owed by Client.

11. Termination of the Representation

Either Clients or Agility may terminate the Representation at any time for any reason. If Agility terminates the Representation, it will give Clients reasonable notice of same. Upon

Carl Johnson & Dan Leckrone
March 10, 2014
Page 4

termination, all unpaid fees and costs for our legal services in the Representation become immediately due and payable. Clients agree to cooperate with Agility in removing Agility's name as counsel of record if such action is required, and Clients will promptly execute and return to Agility the appropriate substitution of counsel forms.

In the event that Clients request that Agility transfer possession of Clients' files to Clients or to a third party, such request shall be in writing and Clients or the third party shall acknowledge receipt of the file in writing. Agility is authorized to retain a copy of Clients' files for Agility's use. Clients' files includes Clients' papers and properties as defined by the California Rules of Professional Conduct.

12. Client Files

If Clients do not request the return of their files, Agility will retain Clients' files for a period of five years, after which time Agility is authorized by Clients to have the files destroyed without further notice to Client. If Clients wish to have its file maintained beyond the five years after Clients' matter has concluded, Clients must make separate arrangements with Agility.

In the event that Clients terminate Agility's representation of the Clients or Agility is required to withdraw from representation of the Clients based on the Clients' breach of this Agreement (including, without limitation, failure by the Clients to timely pay invoices for services performed or costs incurred by Agility for or on behalf of the Client), the Clients agree that it will pay Agility for any copying costs or other charges incurred by Agility in providing copies of the files relating to Agility's representation of the Clients to the Clients or their new counsel.

13. Disclaimer of Guarantee

Agility makes no representations or warranties concerning the successful prosecution or defense of the Representation or the favorable outcome of any legal action that has been or may be filed. All statements of Agility on any such matters are statements of opinion only, and shall not be construed as promises or guarantees. Clients understand and agrees that the Representation concerns matters of legal judgment, over which reasonable minds can disagree, and that the outcome of the Representation is uncertain and subject to contingencies and events beyond the control of Agility or Client.

14. Arbitration

We do not anticipate having any disagreements with Clients about the quality, cost or appropriateness of our services, but if any concerns about these matters arise, please notify us immediately. We will endeavor to resolve any disagreements in a fair and amicable manner. If for some reason we were not able to resolve any dispute ourselves, then Agility and Clients agree that all disputes or claims between us of any nature whatsoever shall be resolved by binding arbitration before the American Arbitration Association or JAMS in the county of Santa Clara.

Carl Johnson & Dan Leckrone
March 10, 2014
Page 5

This Agreement to arbitrate includes but is not limited to disputes over the quality or appropriateness of our services, the fees and costs of our services and the Clients' obligations to timely pay for our services. The arbitrator shall have power to decide all matters, including arbitrability, but must decide all disputes in accordance with California law. Agility and Clients choose arbitration because it is usually less expensive and quicker than litigation, and it will allow them to resolve their disputes privately. The arbitrator shall allow limited discovery to enable Agility and Clients to present their cases, but will be mindful of their mutual desire to avoid the expense of broad discovery typically allowed in civil litigation.

Notwithstanding the foregoing, either party may first submit fee disputes to the bar association. If the bar association declines to hear a fee dispute, or if either party wishes to reject a decision by the bar association on any fee dispute, then said fee dispute shall also be resolved by arbitration as set forth above.

15. Counterparts

This Agreement may be executed in counterparts, and each counterpart shall constitute a binding agreement upon the part of each and all of the undersigned.

16. Severability

If any provision of this Agreement is found by any court or government agency to be illegal, invalid or ineffective for any reason, it shall be severed and the remaining terms of this Agreement shall nevertheless remain in full force and effect.

17. Entire Agreement

This Agreement represents the entire agreement and understanding between Clients and Agility concerning Clients' Representation by Agility, and supersedes and replaces any and all prior agreements and understandings concerning the Representation. This Agreement may only be amended or modified in a formal writing signed by Clients and Agility, and may not be amended or modified by implication by way of email.

18. Effective Date

This Agreement will take effect when Clients have performed the conditions stated in Paragraph 2, but its effective date will be retroactive to the date Agility first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Clients will be obligated to pay Agility the reasonable value of any services Agility may have performed for Client.

By signing this Agreement, Clients affirm that they understand that they are free to consult with other counsel before signing this Agreement about the wisdom of agreeing to the terms of the Agreement, including the provision for binding arbitration. Clients also affirm that they are voluntarily signing this Agreement. Clients affirm that they have read and understood

Carl Johnson & Dan Leckrone
March 10, 2014
Page 6

the foregoing terms, including those regarding arbitration, and the terms set forth on the attached **Statement of Billing Policy and Schedule of Rates**, and agrees to them as of the date Agility first provided services. If more than one party signs below, each agrees to be liable, jointly and severally, for all obligations under this Agreement.

We look forward to working with you. Should you have any questions, please feel free to contact me.

Sincerely,

James C. Otteson
Founding Partner

I have read the foregoing letter, understand it and agree to it on behalf of Technology Properties Limited and Phoenix Digital Solutions

By: 
Dan Leckrone

Title: _____

Dated: 11 MAR 14

I have read the foregoing letter, understand it and agree to it on behalf of Patriot Scientific Corporation and Phoenix Digital Solutions.

By: _____
Carl Johnson

Title: _____

Dated: _____

**Agility IP Law – Hourly Rates for Professional Services
Matters as of January 1, 2014**

Attorneys	Per Hour Rate
James C. Otteson	\$495/hr
David A. Caine	\$450/hr
Thomas T. Carmack	\$450/hr
Philip Marsh	\$450/hr
Brandon Baum	\$450/hr
David Lansky	\$425/hr
Jed Phillips	\$375/hr
Vinh Pham	\$350/hr
Michael Nguyen	\$325/hr

Legal Staff	Per Hour Rate
Vincent Yee	\$225/hr
Susan Kalra	\$195/hr
Gene Lee	\$195/hr
Sherri Mills	\$195/hr
Ana Villanueva	\$195/hr
Tracey Nero	\$195/hr

Agility IP Law

Statement of Billing Policy

This statement of Billing Policies and Procedures and the attached Schedule of Rates generally describe our current billing policies and procedures. We ask that you review this information carefully and encourage you to discuss with us any questions you may have concerning these policies and procedures at any time, especially if elements of our policy vary from your own internal policies or practices.

1. Basis for Professional Fees for Legal Services.

Hourly Rates. Our policy is to charge a reasonable fee that reflects fair value for legal services rendered in connection with the particular matter or matters involved. The basic factor used to determine our professional fees is the number of hours that attorneys and other professional staff devote to a client matter multiplied by the applicable billing rates. Accordingly, each of our lawyers and legal staff maintains time records for each client matter. These records are reviewed monthly by the responsible billing attorney before an invoice is prepared.

The attached Schedule of Rates reflects the current billing rates for our attorneys and professional staff. The rates applicable to a particular matter depend on a number of factors, including the experience and expertise of each attorney and member of our professional staff, the nature and complexity of the matter, and the special skills required to perform the particular legal services. We customarily review our billing rates annually. When we adjust rates, the adjusted rates are automatically applied to ongoing matters unless otherwise agreed in writing.

Alternative Billing Arrangements. We are always available to discuss alternative billing arrangements with you, including for example, fixed fees, monthly fixed fees, contingency fees, modified contingency fees, subscription fees, etc. We will consult with you in the event we propose to use a different method of billing than charging for our time based on hourly rates.

Staffing. Staffing decisions will be made with the objective of providing high-quality legal services on a basis that is both effective and economical. We will use our best judgment to reasonably minimize the number of lawyers who work on any particular client matter.

Fee Estimates and Budgets. Unless a specific written agreement to such effect has been reached in advance with the client, any estimates of our fees represent only our best approximation of those fees, and such estimates do not constitute a maximum or minimum fee quotation.

2. Disbursements and Costs.

In addition to the professional fees described above, we charge for expense disbursements and other costs incurred in connection with performing legal services. All such charges are itemized individually on our invoices. We will attempt to minimize these expenses, consistent with client directives, time constraints, and quality requirements.

Disbursements to Third Parties. All disbursements to third parties are invoiced to clients at our actual cost. These include filing fees, court reporter fees, expert witness fees, computerized legal research, photocopying (when it is more efficiently outsourced than performed by our staff), investigator and consultant fees, postage charges and travel (see the separate section on travel, below).

We may request that third-party charges in excess of \$500 be paid directly by the client to the third party where practicable.

Costs Incurred. Costs incurred for support services are charged only to those clients who make use of such services. These services are invoiced at our estimate of their actual cost; this includes direct costs, equipment maintenance, and a reasonable allocation of other expenses directly associated with the provision of the service. These services include in-house photocopying, document preparation (only in litigation matters or when used in lieu of professional printing), outgoing facsimiles and delivery charges. Charges for these costs are included on the attached Schedule of Rates and may be changed from time to time to reflect changes in our cost structure, in which case the new rates will automatically apply unless otherwise agreed in writing.

Travel Expenses. We charge for local travel expenses, including the time spent in transit in connection with client matters as well as reimbursements for tolls and parking.

Costs for out-of-town travel on client business are charged to the client at our cost. It is our policy that attorney travel shall conform to the client's own travel policies and shall otherwise be prudent and reasonable.

We charge travel time at the standard hourly billing rates. We will use reasonable efforts to mitigate such charges by spending as much travel time as possible working on client matters, whether for the client on whose behalf the travel is undertaken or for another client (in which case the time will be billed to the other client).

3. **Retainers.**

It is our policy to obtain an advance from clients under certain circumstances, including certain complex litigation matters where we will incur substantial third-party expenses in connection with our services.

4. **Invoices.**

Our standard practice is to invoice our clients for fees for services rendered as well as disbursements and costs on a monthly basis, unless other arrangements have been made. On matters that are not billed monthly, we may send out monthly invoices for disbursements and costs. We attempt to include all costs and disbursements in the statement for the month in which such expenses are incurred. However, information concerning some charges may not be available for billing until a subsequent billing period, at which time we will invoice them.

Our invoices are due and payable upon receipt, unless other arrangements have been agreed to in advance.

Schedule of Rates

HOURLY RATES FOR PROFESSIONAL SERVICES

See "Agility IP Law – Hourly Rates for Professional Services"

RATES FOR SUPPORT SERVICES

Photocopying (in-office): Black & White / Color 15¢ / 50¢ per page
Document preparation (in litigation or in lieu of professional printing).....\$35 per hour
Outgoing Telecopy: Domestic / International..... \$1.00 / \$2.00 per page
Delivery Services Standard rates based on distance

THIRD-PARTY DISBURSEMENTS. Disbursements to third parties are generally invoiced at our actual cost. Third-party disbursements include filing, court reporter and expert witness fees, computerized legal research, outside photocopying, investigator and consultant fees and travel. Third-party charges in excess of \$500 may be forwarded to the client for direct payment by the client.

SUBJECT TO CHANGE. The attorney in charge of a client matter will determine the appropriate billing rates from the ranges set forth above. Our hourly rates for professional services and the rates for support services specified above may be adjusted from time to time. Rates for professional services are generally reviewed annually, and the adjusted rates are automatically applied to ongoing matters. If requested, billing rates applied to a client's matters will appear on our invoices.



James C. Otteson
jim@agilityiplaw.com

March 10, 2014

VIA ELECTRONIC MAIL

Mr. Dan Leckrone
Technologies Properties Limited
20883 Stevens Creek Boulevard, Suite 100
Cupertino, California 95014
Email: sanjose@tplgroup.net

**Re: Representation of Technology Properties Limited & Patriot Scientific Corporation by Agility IP Law, LLP in the appeal of HTC Corporation and HTC America, Inc. v. Technology Properties Limited, et al;
Fed. Cir. Case No. 14-1076**

Dear Dan:

I want to tend to a housekeeping matter regarding certain potential consequences flowing from the fact that both Technology Properties Limited ("TPL") and Patriot Scientific Corporation ("Patriot") have asked Agility IP Law, LLP ("Agility") to represent them in the above-referenced appeal to the Federal Circuit. This letter also confirms that both TPL and Patriot have consented to such joint representation ("the Representation") pursuant to the terms described below.

1. Professional undertaking

We will do our utmost to serve both clients effectively, vigorously and efficiently. It is understood that at this juncture we are representing only TPL and Patriot in these matters and not anyone else associated with either TPL or Patriot unless we later agree otherwise and the agreement is specifically memorialized in writing.

2. Pros and cons of joint representation

Under Rule 3-310(C) of the California Rules of Professional Conduct (the "Rules"), we need to disclose to TPL the pros and cons of representing more than one client in a particular matter, any actual conflicts of interest we perceive and any potential conflicts that we can identify. After disclosing that information to TPL, we need to obtain the informed written consent to our joint representation of both of our clients in these matters. As noted above, joint representation has advantages and disadvantages. It can provide clients with economic and tactical advantages. For example, joint representation is obviously less expensive than if each client retained separate counsel, and it is typically more efficient to have one counsel rather than multiple counsel involved.

On the downside, whenever lawyers represent a group of clients in a matter, it is possible that the lawyers might emphasize the interests of the group over the individual clients'

Mr. Dan Leckrone
March 10, 2014
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respective interests or might favor the interests of some of the individual clients over those of the others, despite the lawyers' best efforts not to do so.

Another point TPL should be aware of in deciding whether to agree to the joint representation is that all of its communications with Agility about the Representation will be privileged with regard to the outside world, but they will not be privileged vis-a-vis Patriot. In other words, unless Patriot agrees, TPL cannot tell us something about these matters and ask us to keep it secret from Patriot in the same matters. As long as we represent TPL and Patriot in these matters, there will be no privilege shielding our discussions with TPL about the Representation from Patriot in these matters. Likewise, if TPL and Patriot were to sue each other in connection with these matters, then the law would not allow TPL to invoke the privilege against Patriot as to any information which TPL had disclosed to Agility about these matters while Agility was jointly representing TPL and Patriot on these matters. Indeed, if such a lawsuit arose, we might be required, under section 962 of the California Evidence Code, to divulge such information in that litigation. Agility agrees that if there is a later dispute between TPL and Patriot regarding indemnity, we will not represent either party.

All this does not mean that we will always tell each client each detail about these matters. We are obligated to keep our clients informed of significant developments, but can and will use our discretion and professional judgment about what information to pass on. As you can see, there are reasons why Patriot might prefer to have separate counsel in these matters.

3. Actual conflicts

At present, we see no actual conflicts of interest between TPL and Patriot in the handling of the Federal Circuit appeal. In fact, it is our belief that the interests of TPL and Patriot in this matter are aligned because both TPL and Patriot have the same interests in defeating HTC's appeal on the '336 patent, and winning the patent holders' appeal on the '890 patent.

4. Potential conflicts

We are not aware at this time of any potential conflicts of interests between TPL and Patriot in Federal Circuit appeal other than those discussed above under paragraph 2.

If you are presently aware of any differences in your positions vis-a-vis Patriot that could make it difficult for us jointly to represent both TPL and Patriot in the Representation, you must notify us immediately. Otherwise, we are entitled to conclude that you see none and that you want Agility to jointly represent both of you.

5. Future conflicts

If we believe that the potential conflicts described above have ripened into actual conflicts, we will bring this to TPL's attention, so that TPL can decide whether it wishes to obtain independent counsel. TPL agrees to do likewise. If a conflict or dispute were to develop among

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our clients in this matter, we would have to address and try to resolve the conflict between their interests. But at that point, absent written consent from each of our clients in these matters, there is a risk that we might be disqualified from representing any of them in these matters. To avoid that result, we are asking for TPL's consent as set forth below.

6. Termination of the representation

TPL is free to terminate the representation at any time. Agility reserves the right to terminate our representation at any time for any reason. Agility also reserves the right to limit the scope of the Representation to exclude issues causing a conflict if, in our view, such a conflict would prevent us from adequately fulfilling our responsibilities to TPL and Patriot. However, Agility may need to withdraw if a conflict arises, and we reserve the right to terminate our representation at any time for any other reason. If either of us terminates the Representation, this could mean that you would have to retain new counsel to represent you. In that case, we will work with you to minimize any disruption and make a smooth transition to new counsel.

7. Conclusion

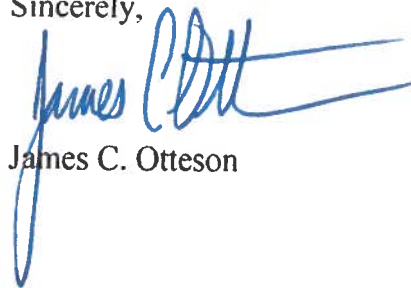
If TPL agrees to the Representation on the terms described in this letter, please signify its informed consent by signing below and returning this letter to us. TPL may, of course, seek independent counsel (outside of Agility) regarding the import of this consent, and we emphasize that TPL remains completely free to seek independent counsel at any time even after you sign the consent set forth below. TPL agrees, however, that its decision to retain independent counsel will not in any way prevent Agility from continuing to represent Patriot pursuant to the above discussion.

If you are concerned that our joint representation of TPL and Patriot might compromise the independence of our professional judgment with regard to TPL's interests on these matters, that it might interfere with our attorney-client relationship with TPL in this matter, or that it might otherwise affect our representation of TPL in any way, it is essential that you raise that issue with us now. Otherwise, we will rely on your signature below as expressing TPL's consent to the joint representation described above, on the terms and conditions noted above, despite the risks noted above.

Mr. Dan Leckrone
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Dan, we look forward to working with you on these matters and thank you for the opportunity to serve you. Should you have any questions, please feel free to call me.

Sincerely,



James C. Otteson

I have read the foregoing letter, understand it and agree to it on behalf of Technology Properties Limited.

By:



Dan Leckrone
Technology Properties Limited

Dated:

11 MAR 14



James C. Otteson
jim@agilityiplaw.com

March 10, 2014

VIA ELECTRONIC MAIL

Mr. Carl Johnson
Patriot Scientific Corporation
701 Palomar Airport Rd, Suite 170
Carlsbad, CA 92011-1045
E-mail: cjohnson@roswellcapitalpartners.com

**Re: Representation of Patriot Scientific Corporation & Technology Properties Limited by Agility IP Law, LLP in the appeal of HTC Corporation and HTC America, Inc. v. Technology Properties Limited, et al;
Fed. Cir. Case No. 14-1076**

Dear Carl:

I want to tend to a housekeeping matter regarding certain potential consequences flowing from the fact that both Patriot Scientific Corporation ("Patriot") and Technology Properties Limited ("TPL") have asked Agility IP Law, LLP ("Agility") to represent them in the above-referenced appeal to the Federal Circuit. This letter also confirms that both Patriot and TPL have consented to such joint representation ("the Representation") pursuant to the terms described below.

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We will do our utmost to serve both clients effectively, vigorously and efficiently. It is understood that at this juncture we are representing only Patriot and TPL in these matters and not anyone else associated with either Patriot or TPL unless we later agree otherwise and the agreement is specifically memorialized in writing.

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If you are presently aware of any differences in your positions vis-a-vis TPL that could make it difficult for us jointly to represent both Patriot and TPL in the Representation, you must notify us immediately. Otherwise, we are entitled to conclude that you see none and that you want Agility to jointly represent both of you.

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6. Termination of the representation

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7. Conclusion

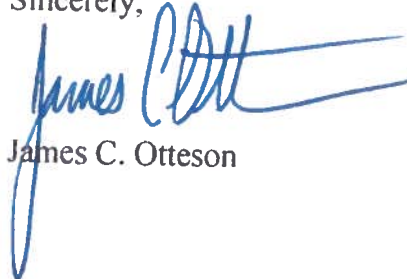
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If you are concerned that our joint representation of Patriot and TPL might compromise the independence of our professional judgment with regard to Patriot's interests on these matters, that it might interfere with our attorney-client relationship with Patriot in this matter, or that it might otherwise affect our representation of Patriot in any way, it is essential that you raise that issue with us now. Otherwise, we will rely on your signature below as expressing Patriot's consent to the joint representation described above, on the terms and conditions noted above, despite the risks noted above.

Mr. Carl Johnson
March 10, 2014
Page 4

Carl, we look forward to working with you on these matters and thank you for the opportunity to serve you. Should you have any questions, please feel free to call me.

Sincerely,


James C. Otteson

I have read the foregoing letter, understand it and agree to it on behalf of Patriot Scientific Corporation.

By: _____
Carl Johnson
Patriot Scientific Corporation.

Dated: _____



Appeal Timeline

14-1317 HTC Corporation v. Technology Properties Limited

Associated Case	Short Title	Type	Start	End	Status
14-1076	HTC Corporation v. Technology Properties Limited	Cross-appeal	02/27/2014		open

Originating Case	Lead Case	Filed	Execution Date	Judgment	NOA	Originating Judge	Court Reporter
5:08-cv-00882-PSG		02/08/2008			02/20/2014		

Party	Party Type
HTC Corporation	Plaintiff-Cross-Appellant
HTC America, Inc.	Plaintiff-Cross-Appellant
Technology Properties Limited	Defendant-Appellant
Patriot Scientific Corporation	Defendant-Appellant
Alliacense Limited	Defendant-Appellant

Due Date	Activity
February 27, 2014	Date of docketing. Docket No. 1-1 ("Notice of Docketing).
March 13, 2014¹	- Notice of intent to file a corresponding brief. Fed. Cir. R. 32(e) ("Within 14 days of docketing an appeal, a party intending to file a corresponding brief must ascertain whether any other party consents or objects. If the other parties consent, the filing party must promptly file with the court a notice of intent to file a corresponding brief. If any other party does not consent, the party seeking to file a corresponding brief must promptly file a motion for leave with the court.").

¹ Because the Court have added 3 days to the date of docketing to arrive at the Appellants' initial brief due date, it is likely that 3 days should be added here as well, making it March 17, 2014. However, because the language states that "within 14 days of docketing an appeal" and not service of the docketing notice, we will leave the date as March 13, 2014 to be safe. Because of the word "promptly" in Fed. Cir. R. 32(e), the date to serve the notice of intent is approximate.

	<ul style="list-style-type: none"> - Appellants' designation of materials from which the appendix will be prepared and a statement of the issues to be presented for review (within 14 days after docketing in an appeal from a court). Fed. Cir. R. 30(b)(2) ("The parties are encouraged to agree on the contents of an appendix that will comply with this Federal Circuit Rule 30. In the absence of an agreement, the appellant must ... serve on the appellee or cross appellant a designation of materials from which the appendix will be prepared and a statement of the issues to be presented for review."). - Entry of appearance (within 14 days of the date of docketing). Fed. Cir. R. 47.3. - Certificate of interest (within 14 days of the date of docketing) Fed. Cir. R. 47.4. - Docketing statement (within 14 days of the date of docketing). http://www.cafc.uscourts.gov/images/stories/rules-of-practice/forms/form26.pdf.
March 27, 2014	Cross appellants' counterdesignation of additional parts to be included in the appendix. Fed. Cir. R. 30(b)(2) ("The appellee or cross appellant may, within 14 days after receiving the designation, serve on the appellant a counterdesignation of additional parts to be included in the appendix.").
April 10, 2014	Appellants' Table of Page Numbers or copy of a physical compilation of the designated material with the assigned page numbers shown (within 14 days after the parties have designated the material for the appendix). Fed. Cir. R. 30(b)(4)(A) and (B).
May 1, 2014	Appellants' initial brief. Date set by the Feb. 27, 2014 Order reactivating case. Fed. Cir. R. 31(a).
June 10, 2014 ²	Cross appellants' initial brief (within 40 days after appellants' brief). Fed. Cir. R. 31(a).
July 20, 2014	Appellants' reply brief (within 40 days after cross-appellants' brief). Fed. Cir. R. 31(a).
July 27, 2014	Discuss settlement in appeals (within 7 days after the first three briefs in a cross appeal). Fed. Cir. R. 33(a)(1).
August 03, 2014	Cross-appellants' reply brief (within 14 days after appellants' reply brief). Fed. Cir. R. 31(a).
August 10, 2014	<ul style="list-style-type: none"> - Appellants' appendix (within 7 days after the last reply brief). Fed. Cir. R. 30(a)(4). - A joint statement of compliance with this rule indicating that

² A due date hereafter that is based on prior service of a paper assumes that the paper was delivered on the date of service stated in the proof of service, and thus does not add the 3 days allowed under FRAP 26(c). In addition, if the result falls on a weekend or holiday, the due date has not been set to the next business day as allowed under FRAP 26(a)(1).

	settlement discussions have been conducted; or an agreement that the proceeding be dismissed under Federal Rule of Appellate Procedure 42(b). Fed. Cir. R. 33(a)(2).
October 10, 2014	Anticipated Oral Argument. ("Counsel can expect oral argument to be set within 2 months of the filing of final brief or appendix in a case. Counsel should advise the clerk's office of any potential conflict that would interfere with counsel's ability to appear for oral argument, and counsel should provide updates to inform the clerk's office of any potential conflict as it arises. The clerk's office will make every effort to accommodate counsel's conflicts if counsel so advises the clerk's office prior to the time that the clerk's office sets the date for oral argument.")

1 HEINZ BINDER, #87908
2 ROBERT G. HARRIS, #124678
3 DAVID B. RAO, #103147
4 ROYA SHAKOORI, #236383
5 Binder & Malter, LLP
6 2775 Park Avenue
7 Santa Clara, CA 95050
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9 Facsimile: (408) 295-1531
10 Email: heinz@bindermalter.com
11 Email: rob@bindermalter.com
12 Email: david@bindermalter.com
13 Email: roya@bindermalter.com

14 Attorneys for Debtor and Debtor In
15 Possession Technology Properties Limited, LLC

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, DIVISION 5

In re

TECHNOLOGY PROPERTIES LIMITED,
LLC,

Debtor.

Case No: 13-51589 SLJ

Chapter 11

CERTIFICATE OF SERVICE

I, Natalie D. Gonzalez, declare:

I am employed in the County of Santa Clara, California. I am over the age of eighteen (18) years and not a party to the within entitled cause; my business address is 2775 Park Avenue, Santa Clara, California 95050.

On April 17, 2014, I served a true and correct copy of the following document(s):

**1. EX PARTE APPLICATION TO EXPAND SCOPE OF EMPLOYMENT TO
AGILITY LAW, LLP AS SPECIAL COUNSEL**

1 **2. DECLARATION OF JAMES C. OTTESON IN SUPPORT OF EX PARTE**
2 **APPLICATION TO EXPAND SCOPE OF EMPLOYMENT OF AGILITY IP**
3 **LAW, LLP AS SPECIAL COUNSEL**

4 **3. EXHIBIT A**

5 via electronic transmission and/or the Court's CM/ECF notification system to the parties
6 registered to receive notice as follows:

7 **U.S. Trustee**

8 John Wesoloski
9 United States Trustee
10 Office of the U.S. Trustee
280 So. First St., Room 268
San Jose, CA 95113
Email: john.wesolowski@usdoj.gov

Special Notice

Charles H. Moore
c/o Kenneth Prochnow, Esq.
Chiles and Prochnow, LLP
2600 El Camino Real, Suite, 412
Palo Alto, Ca 94306
Email: kprochnow@chilesprolaw.com

11 **Unsecured Creditors Committee Attorney**

12 c/o John Walshe Murray, Esq.
13 c/o Robert Franklin, Esq.
14 c/o Thomas Hwang, Esq.
Dorsey & Whitney LLP
305 Lytton Avenue
Palo Alto, CA 94301
Email: murray.john@dorsey.com
Email: franklin.robert@dorsey.com
Email: hwang.thomas@dorsey.com

Phil Marcoux
c/o William Thomas Lewis, Esq.
Robertson & Lewis
150 Almaden Blvd., Suite 950
San Jose, CA 95113
Email: wtl@roblewlaw.com

Farella Braun + Martel LLP
Attn: Gary M. Kaplan, Esq.
235 Montgomery Street, 18th Floor
San Francisco, CA 94104
Email: gkaplan@fbm.com

16 **Special Notice**

17 Patriot Scientific Corp.
18 c/o Gregory J. Charles, Esq.
Law Offices of Gregory Charles
2131 The Alameda Suite C-2
San Jose, CA 95126
Email: greg@gregcharleslaw.com

Cupertino City Center Buildings
c/o Christopher H. Hart, Esq.
Schnader Harrison Segal & Lewis LLP
One Montgomery Street, Suite 2200
San Francisco, CA 94104
Email: chart@schnader.com

19 Arockiyaswamy Venkidu
20 c/o Javed I. Ellahie
Ellahie & Farooqui LLP
21 12 S. First St., Suite 600
San Jose, CA 95113
Email: javed@eflawfirm.com

Peter C. Califano, Esq.
Cooper, White & Cooper LLP
201 California Street, 17th Floor
San Francisco, California 94111
E-Mail: pcalifano@cwclaw.com

23 OneBeacon Technology Insurance
24 c/o Gregg S. Kleiner, Esq.
McKENNA LONG & ALDRIDGE LLP
One Market Plaza
Spear Tower, 24th Floor
San Francisco, CA 94105
Email: gkleiner@mckennalong.com

Fujitsu Limited
c/o G. Larry Engel, Esq.
Kristin A. Hiensch, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
E-mail: Lengel@mofo.com

Chester A. Brown, Jr. and Marcie Brown
Randy Michelson
Michelson Law Group
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San Francisco, CA 94104
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Sallie Kim
GCA Law Partners LLP
2570 W. El Camino Real, Suite 510
Mountain View, CA 94040
Email: skim@gcalaw.com

Apple, Inc
c/o Adam A. Lewis, Esq.
Vincent J. Novak, Esq.
Morrison & Foerster LLP
425 Market St.
San Francisco, CA 94105
Email: alewis@mofo.com
Email: vnovak@mofo.com

Toshiba Corporation
c/o Jon Swenson
Baker Botts L.L.P.
1001 Page Mill Road
Building One, Suite 200
Palo Alto, CA 94304
Email: jon.swenson@bakerbotts.com

C. Luckey McDowell
Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, TX 75201
Email: luckey.mcdowell@bakerbotts.com

Jessica L. Voyce, Esq
Baker Botts L.L.P.
2001 Ross Avenue, Suite 600
Dallas, TX 75201
Email: jessica.voyce@bakerbotts.com

Executed on April 17, 2014, at Santa Clara, California. I certify under penalty of perjury
that the foregoing is true and correct.

/s/ Natalie D. Gonzalez
Natalie D. Gonzalez