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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 FILE EXHIBITS TO DECLARATION OF HEINZ
BINDER REGARDING TPL'S OPPOSITION TO MOTION OF CREDITORS'
COMMITTEE FOR ORDERS (1) DIRECTING THE APPOINTMENT OF A CHAPTER
11 TRUSTEE; AND (2) DIRECTING THE DEBTOR AND DANIEL E. LECKRONE TO
APPEAR AND SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT
FOR VIOLATION OF THIS COURT'S ORDER UNDER SEAL**

The *Ex Parte Application to File Exhibits To Declaration of Heinz Binder Regarding
TPL's Opposition to Motion of Creditors' Committee for Orders (1) Directing The Appointment
Of A Chapter 11 Trustee; And (2) Directing The Debtor And Daniel E. Leckrone To Appear And
Show Cause Why They Should Not Be Held In Contempt Of Court For Violation Of This Court's
Order ("Application")* of the Debtor and Debtor-in-Possession Technology Properties Limited,
LLC ("TPL") respectfully represents:

1 1. TPL filed a voluntary petition under chapter 11 on March 20, 2013. No trustee has
2 been appointed and TPL is a debtor-in-possession within the meaning of 11 U.S.C. §§1107 and
3 1108.

4 2. In *TPL's Opposition to Motion of Creditors' Committee for Orders (1) Directing*
5 *The Appointment Of A Chapter 11 Trustee; And (2) Directing The Debtor And Daniel E.*
6 *Leckrone To Appear And Show Cause Why They Should Not Be Held In Contempt Of Court For*
7 *Violation Of This Court's Order* ("Opposition") TPL has responded to various allegations made
8 by the Official Unsecured Creditors Committee and its counsel (the "OCC") in the OCC's
9 *Motion to Appoint Trustee and, Motion for Order to Show Cause RE: Motion of Creditors'*
10 *Committee For Orders (1) Directing The Appointment Of A Chapter 11 Trustee; And (2)*
11 *Directing The Debtor And Daniel E. Leckrone To Appear And Show Cause Why They Should*
12 *Not Be Held In Contempt Of Court For Violation Of This Court's Order* (the "Motion"). The
13 Opposition refers to various electronic communications with the OCC, which TPL is proposing
14 to submit under seal as Exhibits to the Declaration of Heinz Binder Regarding Opposition, which
15 will refute allegations by the OCC in its Motion. The Exhibits proposed to be filed under seal are
16 the same as those submitted under seal to the Court with the *Declaration of Heinz Binder*
17 *Regarding TPL's Statement of Position Regarding Application and Interpretation of Court*
18 *Order* (the "Binder Declaration") filed on December 17, 2013. The Binder Declaration was filed
19 along with an Ex Parte Application to File Exhibits Under Seal which was subsequently denied
20 by the Court on January 9, 2014. With the Opposition now having been filed and TPL's
21 Opposition being supported by the Exhibits proposed to be filed under seal, it is necessary to
22 include the Exhibits in support of the Opposition as they are directly relevant to refute
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1 allegations made by the OCC, but it is also necessary to preserve the communications in those
2 Exhibits as confidential and file those documents under seal.

3 3. TPL is involved in various legal actions regarding patent infringement which it
4 often settles within express parameters and according to the Order On Motion Regarding
5 Settlement Procedures (“Settlement Procedures Order”) entered as Docket #124 on May 7, 2013
6 by this Court. The OCC alleges TPL violated the Settlement Procedures Order and referenced
7 various communications between itself and TPL in its Motion and supporting pleadings.
8 Because of the intricate nature of the matter and keeping the OCC and TPL negotiations
9 confidential as the Settlement Procedures Order recites, it is necessary to keep those electronic
10 exchanges between the parties under seal. In addition, due to the confidentiality and non-
11 disclosure agreements between TPL and the OCC, there is added reasoning to keeping the
12 communications confidential. To disclose the communications would adversely effect and could
13 severely undermine the negotiated procedures, confidentiality agreements, orders etc. between
14 TPL and the OCC.
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16 4. Although there is a presumption that all documents filed in an action in
17 Bankruptcy Court should be accessible by the public, pursuant to 11 U.S.C. §107(b):

18 “[o]n request of a party in interest, the bankruptcy court shall, and on the
19 bankruptcy court’s own motion, the bankruptcy court may – (1) protect an entity
20 with respect to a trade secret or confidential research, development, or
commercial information;...”.

21 TPL believes that facts exist in this case where the information contained in the electronic
22 communications between TPL and the OCC contain privileged and confidential information.

23 5. In addition, the Court in its general grant of equitable powers pursuant to 11
24 U.S.C. §105(a) may issue any order or process that is necessary or appropriate to carry out the
25 provisions of the Bankruptcy Code. Limiting public dissemination of the communications
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1 between TPL and the OCC is consistent with the principles of the Bankruptcy Code because it
2 will serve to protect the value of this Bankruptcy Estate and comply with other agreements
3 between TPL and the OCC along with Orders of this Court, including the Settlement Procedures
4 Order.

5 6. TPL requests that it be permitted to file Exhibits “B through P” under seal and
6 serve the pleadings and remaining exhibits upon all persons required to receive such notice in
7 this bankruptcy case. TPL seeks permission to lodge complete unsealed versions of the same
8 pleadings and supporting exhibits in a separately sealed envelope with the Court in chambers so
9 that the Court will be able to review the complete and unsealed versions of the documents. The
10 cover page identifying the contents of the under seal Exhibits “B through P” will be attached to
11 the front of a sealed envelope and in the upper right hand corner (where the Clerk would
12 normally place the filing stamp) stating, “Sealed Pursuant to Order Dated _____. Do Not
13 File. To be lodged in the Chambers of the Honorable Stephen L. Johnson,” referring to the date
14 that the Court enters the order approving this Application.

15
16 7. TPL proposes to serve counsel for the United States Trustee and counsel for the
17 Official Committee of Unsecured Creditors (“Committee”), subject to its non-disclosure and
18 confidentiality agreement with TPL, with a complete unsealed copy of the pleadings and all
19 exhibits via electronic transmission (as these parties have received these Exhibits prior).
20 Therefore TPL also requests that the Court provide in its order that any reply relating to the
21 Exhibits shall likewise be filed under seal according to the provisions of paragraph 6. An
22 unsealed version of any opposition or reply shall only be served upon counsel for TPL and the
23 United States Trustee. To the extent any other person must be served with any pleadings and
24 supporting exhibits, such persons shall be served with a sealed version of such documents
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1 according to the same provisions in paragraph 6 and the sealed version shall be filed with the
2 Court.

3 WHEREFORE, TPL prays that this Court enter its order as follows:

4 A. Approving this Ex Parte Application.

5 B. TPL may file its Exhibits "B through P" under seal. The complete and unsealed
6 version of the same documents shall be concurrently lodged in chambers in a separately sealed
7 envelope and a complete copy of the unsealed version also be served via electronic transmission
8 upon counsel for the United States Trustee and counsel for the Committee, subject to its non-
9 disclosure and confidentiality agreement with TPL. The cover page identifying the contents of
10 the unsealed document shall be attached to the front of the sealed envelope and in the upper right
11 hand corner shall state "Sealed Pursuant to Order Dated _____. Do Not File. To be lodged
12 in the Chambers of the Honorable Stephen L. Johnson Only," referring to the date that the Court
13 enters the order approving this Application.

15 C. Opposition and reply, if any, relating to the under seal Exhibits shall likewise be
16 filed under seal according to the provisions of paragraph B above. An unsealed version of any
17 opposition and reply shall only be served via electronic transmission upon counsel for TPL and
18 the United States Trustee. To the extent any other person must be served with opposition and
19 reply, such persons shall be served with a sealed version of such documents and the sealed
20 version shall be filed with the Court; and,

22 D. For such other and further relief as the Court deems just and proper.

23 Dated: January 10, 2014

BINDER & MALTER, LLP

24 By: /s/ Roya Shakoori
25 Roya Shakoori
26 Attorneys for TPL
27

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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 ROBERT G. HARRIS IN SUPPORT OF EX PARTE
APPLICATION TO FILE EXHIBITS TO DECLARATION OF HEINZ BINDER IN
SUPPORT OF TPL'S OPPOSITION TO MOTION OF CREDITORS' COMMITTEE
FOR ORDERS (1) DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE;
AND (2) DIRECTING THE DEBTOR AND DANIEL E. LECKRONE TO APPEAR AND
SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT FOR
VIOLATION OF THIS COURT'S ORDER UNDER SEAL

I, Robert G. Harris, declare:

1. I am a member of the State Bar of California in good standing and am admitted to practice before this Court. I am counsel for Technology Properties Limited, LLC ("TPL").

2. TPL filed a voluntary petition under Chapter 11 on March 20, 2013. No trustee has been appointed and TPL is a debtor-in-possession within the meaning of 11 U.S.C. §§1107 and 1108.

3. In *TPL's Opposition to Motion of Creditors' Committee for Orders (1) Directing The Appointment Of A Chapter 11 Trustee; And (2) Directing The Debtor And Daniel E. Leckrone To*

DECLARATION OF ROBERT G. HARRIS IN SUPPORT OF EX PARTE APPLICATION TO FILE EXHIBITS TO DECLARATION OF HEINZ BINDER UNDER SEAL

1 *Appear And Show Cause Why They Should Not Be Held In Contempt Of Court For Violation Of*
2 *This Court's Order* (“Opposition”) TPL has responded to various allegations made by the
3 Official Unsecured Creditors Committee and its counsel (the “OCC”) in the OCC’s *Motion to*
4 *Appoint Trustee and, Motion for Order to Show Cause RE: Motion of Creditors' Committee For*
5 *Orders (1) Directing The Appointment Of A Chapter 11 Trustee; And (2) Directing The Debtor*
6 *And Daniel E. Leckrone To Appear And Show Cause Why They Should Not Be Held In Contempt*
7 *Of Court For Violation Of This Court's Order* (the “Motion”). The Opposition refers to various
8 electronic communications with the OCC, which TPL is proposing to submit under seal as
9 Exhibits to the Declaration of Heinz Binder Regarding Opposition, which will refute allegations
10 by the OCC in its Motion. The Exhibits proposed to be filed under seal are the same as those
11 submitted under seal to the Court with the *Declaration of Heinz Binder Regarding TPL’s*
12 *Statement of Position Regarding Application and Interpretation of Court Order* (the “Binder
13 Declaration”) filed on December 17, 2013. The Binder Declaration was filed along with an Ex
14 Parte Application to File Exhibits Under Seal which was subsequently denied by the Court on
15 January 9, 2014. With the Opposition now having been filed and TPL’s Opposition being
16 supported by the Exhibits proposed to be filed under seal, it is necessary to include the Exhibits
17 in support of the Opposition as they are directly relevant to refute allegations made by the OCC,
18 but it is also necessary to preserve the communications in those Exhibits as confidential and file
19 those documents under seal.
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21
22 4. I am also informed and believe that TPL is involved in various legal actions
23 regarding patent infringement which it often settles within express parameters and according to
24 the Order On Motion Regarding Settlement Procedures (“Settlement Procedures Order”) entered
25 as Docket #124 on May 7, 2013 by this Court. I am informed and believe that the OCC is
26 alleging that TPL violated the Settlement Procedures Order and referenced various
27 communications between itself and TPL in its Motion and supporting pleadings. Because of the
28 intricate nature of the matter and keeping the OCC and TPL negotiations confidential as the
DECLARATION OF ROBERT G. HARRIS IN SUPPORT OF EX PARTE APPLICATION TO FILE EXHIBITS TO DECLARATION
OF HEINZ BINDER UNDER SEAL

1 Settlement Procedures Order recites, it is necessary to keep those electronic exchanges between
2 the parties under seal. In addition, due to the confidentiality and non-disclosure agreements
3 between TPL and the OCC, there is added reasoning to keeping the communications
4 confidential. To disclose the communications would adversely effect and could severely
5 undermine the negotiated procedures, confidentiality agreements, orders etc. between TPL, the
6 OCC and this Court.

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8 5. Limiting public dissemination of the content of the communications between TPL
9 and the OCC will serve to protect the value of this Bankruptcy Estate and comply with other
10 agreements between TPL and the OCC along with Orders of this Court, including the Settlement
11 Procedures Order.

12 I declare under penalty of perjury that the foregoing is true and correct and that this
13 declaration was executed on the 10th day of January, 2014 at San Jose, California.

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15 /s/ Robert G. Harris
16 Robert G. Harris
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1 HEINZ BINDER, #87908
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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

**ORDER APPROVING EX PARTE APPLICATION TO FILE EXHIBITS TO
DECLARATION OF HEINZ BINDER REGARDING TPL'S OPPOSITION TO
MOTION OF CREDITORS' COMMITTEE FOR ORDERS (1) DIRECTING THE
APPOINTMENT OF A CHAPTER 11 TRUSTEE; AND (2) DIRECTING THE DEBTOR
AND DANIEL E. LECKRONE TO APPEAR AND SHOW CAUSE WHY THEY
SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF THIS COURT'S
ORDER UNDER SEAL**

The EX PARTE APPLICATION TO FILE EXHIBITS TO DECLARATION OF HEINZ
BINDER REGARDING TPL'S OPPOSITION TO MOTION OF CREDITORS' COMMITTEE
FOR ORDERS (1) DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE; AND
(2) DIRECTING THE DEBTOR AND DANIEL E. LECKRONE TO APPEAR AND SHOW
CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF THIS
COURT'S ORDER UNDER SEAL ("Application") having been filed by the Debtor and Debtor-
in-Possession Technology Properties Limited, LLC ("TPL") regarding its desire to file certain
Exhibits under seal; good cause appearing,

1 IT IS HEREBY ORDERED that:

2 A. The Application is approved.

3 B. TPL may file its Exhibits "B through P" under seal. The complete and unsealed
4 version of the same documents shall be concurrently lodged in chambers in a separately sealed
5 envelope and a complete copy of the unsealed version also be served via electronic transmission
6 upon counsel for the United States Trustee and counsel for the Committee, subject to its non-
7 disclosure and confidentiality agreement with TPL. The cover page identifying the contents of
8 the unsealed document shall be attached to the front of the sealed envelope and in the upper right
9 hand corner shall state "Sealed Pursuant to Order Dated _____. Do Not File. To be lodged
10 in the Chambers of the Honorable Stephen L. Johnson Only," referring to the date that the Court
11 enters the order approving this Application.
12

13 C. That portion of any Opposition and Reply, if any, relating to the under seal
14 Exhibits shall likewise be filed under seal according to the provisions of paragraph B above. An
15 unsealed version of any opposition and reply shall only be served upon counsel for TPL and the
16 United States Trustee. To the extent any other person must be served with opposition and reply,
17 such persons shall be served with a sealed version of such documents and the sealed version shall
18 be filed with the Court

19 **END OF ORDER**
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COURT'S SERVICE LIST

None. All necessary parties are ECF recipients.

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Attorneys for Debtor and Debtor-In-
Possession Technology Properties Limited, LLC

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA, DIVISION 5

In re

Case No: 13-51589 SLJ

Chapter 11

TECHNOLOGY PROPERTIES LIMITED,
LLC,

NO HEARING REQUIRED

Debtor.

CERTIFICATE OF SERVICE

I, Valynn R. Torres, 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 January 10, 2014, I served a true and correct copy of the following document(s):

1) EX PARTE APPLICATION TO FILE EXHIBITS TO DECLARATION OF HEINZ BINDER REGARDING TPL'S OPPOSITION TO MOTION OF CREDITORS' COMMITTEE FOR ORDERS (1) DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE; AND (2) DIRECTING THE DEBTOR AND DANIEL E. LECKRONE TO APPEAR AND SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF THIS COURT'S ORDER UNDER SEAL;

2) **DECLARATION OF ROBERT G. HARRIS IN SUPPORT OF EX PARTE APPLICATION TO FILE EXHIBITS TO DECLARATION OF HEINZ BINDER REGARDING TPL'S OPPOSITION TO MOTION OF CREDITORS' COMMITTEE FOR ORDERS (1) DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE; AND (2) DIRECTING THE DEBTOR AND DANIEL E. LECKRONE TO APPEAR AND SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF THIS COURT'S ORDER UNDER SEAL;**

3) **[PROPOSED] ORDER APPROVING EX PARTE APPLICATION TO FILE EXHIBITS TO DECLARATION OF HEINZ BINDER REGARDING TPL'S OPPOSITION TO MOTION OF CREDITORS' COMMITTEE FOR ORDERS (1) DIRECTING THE APPOINTMENT OF A CHAPTER 11 TRUSTEE; AND (2) DIRECTING THE DEBTOR AND DANIEL E. LECKRONE TO APPEAR AND SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATION OF THIS COURT'S ORDER UNDER SEAL.**

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

U.S. Trustee

John Wesolowski
United States Trustee
Office of the U.S. Trustee
280 So. First St., Room 268
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Email: john.wesolowski@usdoj.gov

Special Notice

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Special Notice

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Executed on January 10, 2014, at Santa Clara, California. I certify under penalty of perjury that the foregoing is true and correct.

/s/ Valynn R. Torres
Valynn R. Torres