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

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re

TECHNOLOGY PROPERTIES LIMITED,
LLC,

Debtor.

Case No: 13-51589 SLJ

Chapter 11

NO HEARING REQUESTED

**STIPULATED EX PARTE APPLICATION FOR ORDER SHORTENING TIME FOR
HEARING ON MOTION TO AUTHORIZE COMPROMISE AND RETURN BY TPL OF
'549 PATENT PORTFOLIO AND ASSIGNMENT TO PORTFOLIO OWNER (11 U.S.C.
§554(a); FRBP 9019)**

TO THE HONORABLE STEPHEN L. JOHNSON:

Debtor and debtor in possession Technology Properties Limited, LLC (“TPL”) hereby applies to the Court for an order shortening the time for a hearing on its Motion To Authorize Compromise And Return By TPL Of ‘549 Patent Portfolio And Assignment To Portfolio Owner (11 U.S.C. §554(a); FRBP 9019) (the “Motion”) setting the matter for hearing on December 3, 2014, at 2:00 p.m.

TPL respectfully represents as follows in support of this Stipulated Ex Parte Application:

1. MCM Portfolio LLC (“MCM”) is the owner of the CORE Flash Portfolio. TPL and MCM are parties to a commercialization agreement whereunder TPL not only

1 commercializes and licenses CORE Flash patents but is required to protect their value
2 and prosecute the patents it is commercializing. Alliacense is TPL's licensing agent
3 and has been providing said services since TPL entered into the commercialization
4 agreement with MCM in 2006.

- 5 2. On March 27, 2013, HP petitioned the United States Patent and Trademark Office
6 ("USPTO") to institute a new form of post-grant review created by the 2011 America
7 Invents Act known as an "Inter Partes Review" ("IPR") against CORE Flash patent
8 US 7,162,549 and assigned Case No. IPR2013-00217. The Petition was granted. A
9 Writ of Mandamus in the District Court challenging the USPTO's legal basis for
10 granting HP's petition was filed in defense of the patent.
- 11 3. The above-captioned Chapter 11 bankruptcy case was filed on March 20, 2013.
- 12 4. Following a bench trial in the IPR proceeding on 6/4/14, the Patent and Trademark
13 Appeals Board (PTAB) issued its final decision (8/6/14) finding certain claims of
14 U.S. '549 invalid. MCM considers the finding reversible error for various reasons,
15 including: finding U.S. '549 invalid based on insufficient evidence to support the
16 verdict, and denying the argument that HP's IPR was barred due to its filing more
17 than a year after Pandigital was sued for patent infringement when the statute is clear
18 on its face as to the year deadline.
- 19 5. MCM has demanded that TPL either proceed with the '549 appeal or reconvey to
20 MCM all rights to the '549 to MCM. MCM asserts that TPL is presently in default of
21 the commercialization agreement for failing to prosecute the '549 appeal.
- 22 6. TPL presented the Official Unsecured Creditors' Committee (the "OCC") with
23 information regarding the pros and cons of proceeding with the '549 appeal. The
24 Committee agreed to a schedule under which TPL would pay Alliacense \$50,000 for
25 work immediately required on the '549 appeal in exchange for a delay until
26 December 4, 2014, of the deadline for TPL to decide if it is going to proceed with the
27 appeal or reconvey all right, title and interest in and to the '549 patent to MCM.
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Chapter 11

Date: TBD

Time: TBD

Place: Courtroom 3099
280 South First Street
San Jose, California

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**DECLARATION OF COUNSEL IN SUPPORT OF STIPULATED EX PARTE
APPLICATION FOR ORDER SHORTENING TIME FOR HEARING ON MOTION TO
AUTHORIZE COMPROMISE AND RETURN BY TPL OF '549 PATENT PORTFOLIO
AND ASSIGNMENT TO PORTFOLIO OWNER (11 U.S.C. §554(a); FRBP 9019)**

I, Robert G. Harris, know the following matters to be true of my own, personal
knowledge and, if called as a witness, could and would testify competently thereto:

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 debtor and debtor-in-possession Technology
Properties Limited LLC ("TPL"). I am submitting this declaration in support of the above-
referenced application for shortened time.

2. I declare as follows as required by BLR 9006-1(c):

1 a. Reason for Particular Shortening of Time Requested.

2 TPL requires permission to abandon its rights in a portfolio as to which an appeal was
3 decided adversely and as to which immediate action is necessary. TPL does not own the
4 portfolio; rather MCM does. The '549 patent is only a portion of the CORE Flash portfolio, but
5 it is part of a single commercialization agreement with MCM as to that portfolio. Not
6 abandoning forthwith would cripple the appeal and make the work needed to prosecute it
7 impossible. The estate cannot be held liable for such consequences, and the OCC does not wish
8 estate funds to be used to pursue the appeal, so the OCC agreed to stipulate to shortened time to
9 abandon it back to MCM.
10

11 b. Previous Time Modifications Related to the Subject of the Request.

12 Shortened time has not previously been requested with respect to the '549 appeal.

13 c. The Effect of the Requested Time Modification on the Schedule
14 For the Case.

15 The main Chapter 11 case's schedule is not materially impacted by the filing. The parties
16 are prepared to make final adjustments to their disclosure statements and bring their plans up for
17 a vote.

18 d. Stipulation.

19 The creditors' committee has signed off on the Stipulated Ex Parte Application for Order
20 Shortening Time in support of which this Declaration of Counsel is offered.

21 I declare under penalty of perjury of the laws of the United States that the foregoing is
22 true and correct. Executed this 26th day of November, 2014, at Santa Clara, California.
23

24
25 /s/ Robert G. Harris

26 Robert G. Harris
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COMPROMISE AND RETURN BY TPL OF '549 PATENT PORTFOLIO AND
ASSIGNMENT TO PORTFOLIO OWNER (11 U.S.C. §554(a); FRBP 9019)**

The Court has considered the Stipulated Ex Parte Application For Order Shortening Time For Hearing On Motion To Authorize Compromise And Return By TPL Of '549 Patent Portfolio And Assignment To Portfolio Owner (11 U.S.C. §554(a); FRBP 9019) (the "Application").

There being no objection, and good cause appearing therefor, the Motion be and hereby is GRANTED. IT IS THEREFORE ORDERED that

1. The hearing on the Motion To Authorize Compromise And Return By TPL Of '549 Patent Portfolio And Assignment To Portfolio Owner (11 U.S.C. §554(a); FRBP 9019) (the "Motion") shall take place on December 3, 2014, at 2:00 p.m.
2. Time be and hereby is shortened for the hearing on the Motion.

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COURT SERVICE LIST

** All ECF Recipients