

EXHIBIT 5

Somait, Lina

From: Manning, Susan Baker [susan.manning@bingham.com]
Sent: Monday, March 28, 2011 10:10 AM
To: Lu, Sam
Cc: Somait, Lina; Lo, Audrey; Suggs, Christopher B.; Goldberg, Robin S.
Subject: Skyhook v. Google (federal) -- protective order
Follow Up Flag: Follow up
Flag Status: Red

Dear Sam --

I write to follow up on the only outstanding issue on the PO: whether the prosecution bar will prohibit those attorneys with access to the other side's confidential information from being substantively involved in reissue or reexamination proceedings. Google believes that the case law (and common sense) on balance supports extending the bar to reexamination and reissue proceedings. When you and I last spoke, neither party had a compromise position to propose. In thinking about the issue since then, Google's chief concern is that counsel with access to its confidential information not be able to use that information (even inadvertently) to reshape the claims of the patents. Were the patents to be part of reexamination or reissue proceedings, we think the risk of misuse of Google's confidential information is less grave if counsel's activities are limited to addressing the scope of the prior art and its relevance to the claims as originally issued.

If Skyhook is open to such an approach, please give me a call to discuss. Either way, please advise as to Skyhook's position in the next few days. We'd like to get this wrapped up. I hope we're able to come to agreement, but if we're not, let's discuss an approach for presenting the issue to the court for resolution.

thanks,
Susan

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4/13/2011