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January 10, 2008

The Honorable Jeanne J. Graham
United States Magistrate Judge
United States District Court - District of Minnesota
Interim U.S. Courthouse, Suite 750
180 East Fifth Street
St. Paul, MN 55101

Re: *Timebase Pty Ltd. vs. The Thomson Corporation, et al.*
Civil No. 07-CV-1687 (JNE/JJG)

Dear Magistrate Judge Graham:

We are counsel for the defendants in the above matter, which has been stayed pending reexamination of plaintiff's U.S. Patent No. 6,233,592 by the United States Patent & Trademark Office ("PTO"). In view of the Court's Order of January 9, 2008, we thought the Court would find it helpful to receive a prompt supplemental status update on the reexamination. In our letter dated December 17, 2007, we confirmed that the reexamination of the '592 patent was still pending and that the PTO had not yet issued any office actions.

Based on the attached PTO Patent Application Information Retrieval report, the PTO has taken the following steps in the reexamination: The case was docketed to a PTO Examiner on February 7, 2007 and a litigation search conducted on March 26, 2007. The PTO granted the reexamination request on April 3, 2007. In doing so, the PTO determined that each of the three references submitted with the request raised a substantial new question of patentability affecting all claims in the '592 patent. A copy of the PTO's Order granting the reexamination was included with the papers we filed in support of defendants' motion to stay. (Docket No. 36, Ex. 4.) The PTO published a notice of reexamination in the Official Gazette on April 24, 2007.

Plaintiff did not exercise its right in the reexamination to submit a statement or proposed amendments to the PTO pursuant to 37 C.F.R. § 1.530(b) within the two-month period ending June 3, 2007. On June 25, 2007, the reexamination was forwarded to an Examiner.

Next, the PTO will conduct the reexamination with "special dispatch" and in accordance with the procedures for initial examination. 35 U.S.C. § 305 (2008). Because

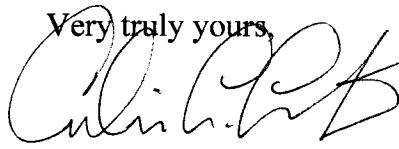
the '592 reexamination is involved in litigation, it will have priority over all other cases. Manual of Patent Examining Procedure ("MPEP") § 2261.

The Examiner will prepare a first Office Action. MPEP § 2253. This first Office Action may reject all of the claims, reject some of the claims, or allow all of the claims. *See* 37 C.F.R. §§ 1.550(a), 1.104(c)(1). If the PTO rejects any claims, TimeBase will have one month in which to respond to the first Office Action and request reconsideration or further examination, with or without amendment of the claims, unless TimeBase obtains an extension of time in which to respond (which requires "sufficient cause"). 37 C.F.R. §§ 1.111(a)(1), 1.550(b)-(c); MPEP § 2263.

The PTO intends the first Office Action to be the primary action to establish the issues which exist between the Examiner and the patent owner concerning the patent. MPEP § 2260. The Office Action which follows the first Office Action is expected to be a Final Office Action. *Id.* Any amendment offered by TimeBase after the Final Office Action must include "a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented" in order to be considered. *Id.*

If TimeBase and the PTO do not reach agreement on the claims, TimeBase may appeal to the Board of Patent Appeals and Interferences and then to the Federal Circuit or the United States District Court for the District of Columbia. 35 U.S.C. §§ 134, 141-145, 306.

As we stated in the motion papers we filed when seeking a stay, published statistics suggest that the median duration of a reexamination proceeding is approximately seventeen months. (Docket No. 36, Ex. 1.) We would be happy to provide any more information that the Court believes would be helpful.

Very truly yours,

Calvin L. Litsey

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cc: Joe Hosteny, Esq.
Michael Sullivan, Esq.

Enclosure