

On June 18, 2010, Eastman Kodak Company (“Kodak”) filed a complaint (the “Complaint”) in the above-captioned adversary proceeding, seeking declaratory and injunctive relief with respect to U.S. Patent Nos. 6,292,218; 5,493,335; 5,828,406; 6,147,703; 6,441,854; 6,879,342; 7,210,161; 7,453,605; 7,742,084; and 7,936,391 (the “Disputed Patents”).² By the Complaint, Kodak seeks a declaratory judgment finding that it – and not Apple Inc. (“Apple”) or FlashPoint Technology Inc. (“Flashpoint”) – is the true owner of the Disputed Patents, as well as an injunction prohibiting Apple or FlashPoint from asserting ownership rights in the Disputed Patents. FlashPoint disputes the allegations made by Kodak in the Complaint and denies that Kodak is entitled to the relief it seeks.

FlashPoint was formed as spinoff of Apple’s digital camera business. As part of this spinoff, FlashPoint was assigned rights in Apple’s digital camera technology, including certain patent rights. The rights assigned by Apple to FlashPoint include all rights in the technology covered by the Disputed Patents. These patents are properly owned by FlashPoint.

I. ARGUMENT

FlashPoint adopts and incorporates by reference the arguments made in Apple Inc.’s Motion to Withdraw the Reference of the Above Captioned Adversary Proceeding [Docket No. 2] (the “Apple Motion to Withdraw the Reference”). FlashPoint incorporates and adopts the arguments made by Apple solely for the sake of economy and convenience. The adoption of Apple’s arguments and support of the withdrawal of the reference does not constitute, and should not be construed as, a concession or agreement in regard to Apple’s alleged ownership claim with respect to the Disputed Patents, as to which FlashPoint expressly reserves all rights.

² In addition to the Disputed Patents identified in Kodak’s Complaint, FlashPoint is the true owner of certain other patents in which Kodak alleges an ownership interest. Hence, Flashpoint intends to address its ownership claims in such patents by way of a counterclaim in its Answer to the Complaint.

In further support of its motion, FlashPoint incorporates by reference the averments made in its answer to the complaint in the above-captioned adversary proceeding, filed contemporaneously herewith.

II. RESERVATION OF RIGHTS

FlashPoint reserves all of its rights and nothing contained herein should be construed as consent by FlashPoint to the adjudication of its rights to the Disputed Patents in the Bankruptcy Court, assertion of proof of claim (either formal or informal), or as a waiver of FlashPoint's right to a jury trial on all issues so triable.

III. CONCLUSION

For the foregoing reasons, FlashPoint respectfully requests that the Court withdraw the reference with respect to the above-captioned adversary proceeding.

[remainder intentionally left blank]

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