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8 *Attorneys for Plaintiff*
9 KOJI IP, LLC

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**
14

15 KOJI IP, LLC,
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17 Plaintiff,
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19 v.
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21 RENESAS ELECTRONICS AMERICA,
22 INC.,
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24 Defendant.
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Case No.: 3:24-cv-03089-PHK

**DECLARATION OF JEFFREY E.
KUBIAK IN SUPPORT OF RESPONSE
TO ORDER TO SHOW CAUSE**

Date: September 19, 2024
Time: 10:30 a.m.
Magistrate Judge Peter H. Kang

DECLARATION OF JEFFREY EUGENE KUBIAK

I, Jeffrey Eugene Kubiak, declare as follows:

1. My name is Jeffrey Kubiak. I am over the age of 21. I have personal knowledge of the facts contained herein, which are true and correct. If called as a witness, I could competently testify to these statements.

2. I am licensed to practice law in the state of Texas and am an attorney with the law firm of Ramey LLP.

3. I rely on support from my highly competent staff and the other attorneys at the Ramey LLP firm. I also used resources including litigation support services from Simon Sunatori. While I am confident in the support that I receive from Mr. Sunatori, my opinion and his differ from time to time and I do not rely upon his reports without reviewing them personally.

4. Plaintiff Koji IP, LLC ("Koji") sued Defendant Renesas Electronic Americas, Inc., ("Renesas") alleging that Renesas infringes U.S. Pat. Nos. 10,790,703 ("the '703 Patent"), entitled "Smart Wireless Power Transfer Between Devices" ("Patent-in-Suit") in the District of Colorado on June 30, 2023.

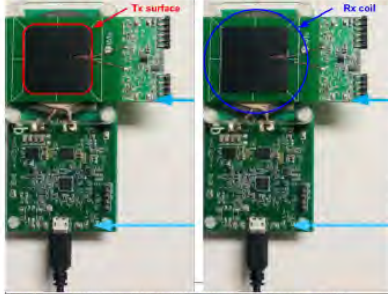
5. I, on behalf of Koji, was actively involved in the suit filed in the District of Colorado on June 30, 2023 including approving the claim charts.

6. I, along with Mr. Ramey, began communicating with Defendant's counsel, Jason Crotty, about the case, including both infringement and Defendant's contention that venue was improper on July 20, 2023. Exhibit B is a true and correct copy of an e-mail chain between me, William Ramey, and Jason Crotty.

7. Renesas disagreed with Koji's infringement position. I reviewed and approved Koji's rebuttal to Renesas' position, a portion of which is reproduced here, with the remainder in Exhibit E:

Additionally, the claims do not appear to read on the accused product, as they appear directed primarily to the transmission side, and the P9222-R EVK is essentially a low power receiver product.
 • US 10,790,703: "Smart wireless power transfer between devices"
 (Claim 1 of US 10,790,703 is "A wireless power transfer system for wirelessly charging a powered device" which encompasses both transmitter and receiver. Therefore, there is no "primarily to the transmitter side" or "primarily to the receiver side". Renesas Electronics America's P9222-R EVK is Qi certified, i.e., it must follow both Qi's Power Transfer Protocol and Qi's Power Receiver Protocol.
 • Qi Specifications | Wireless Power Consortium
https://www.wirelesspowerconsortium.com/data/secure/downloads/59/2/2/qi_v13_public.pdf
 In fact, Renesas Electronics America's own document admits that Renesas product "P9235A-RB-EVK Evaluation Board or any other Qi certified transmitter can be used as the power transmitter", as shown below:
 The P9222-R-EVK Wireless Power Evaluation Board can be used to demonstrate the features and performance of the P9222-R 5W Wireless Power Receiver in low power 2.5W applications such as in earbuds charging cases. The P9222-R-EVK can also supply up to 5W power. IDT's P9235A-RB-EVK Evaluation Board or any other Qi certified transmitter can be used as the power transmitter for P9222-R-EVK evaluation board testing.

<https://www.renesas.com/us/en/documents/mh705v12-evaluation-board-application-note-53119>
 Renesas Electronics America wrote:
 Even if that issue were somehow overcome, our analysis also indicates that the P9222-R EVK does not perform several limitations of the independent claims, including, as examples, the last three "wherein" limitations in Claim 1.
 Renesas Electronics America describes "P9222-R EVK PCB boards acts as a spacer between Tx surface and Rx coil" and depicts Tx surface narrower than Rx coil, i.e., transmission power of the wireless communication circuitry is as controlled as to make a range of the close-range wireless communication substantially narrower than a range of the radiated power region.



¹ Exhibit E is a true and correct copy of Koji's rebuttal to Renesas' non-infringement allegation, sent to Renesas in an e-mail chain from Mr. Ramey to Mr. Crotty. Each of Renesas' noninfringement positions was addressed.

8. The Colorado lawsuit was dismissed on September 6, 2023 in order to avoid a fight over venue.

9. On November 8, 2023, Susan Kalra refiled the Colorado lawsuit in the Northern District of California as *Koji IP LLC v Renesas Electronics America, Inc*, Case No. 3:23-cv-05752-LJC (N.D. Cal. Nov. 8, 2023), utilizing the same claim chart that I had previously reviewed and

¹ Ex. E, claim chart rebuttal attached to August 1, 2023 e-mail chain.

1 approved. Exhibit G is a true and correct copy of the Original Complaint, including the claim
2 chart that I had approved filed under cause number 3:23-cv-05752-LJC.

3 10. After the August hearing in this matter, Ms. Kalra, Mr. Ramey, and I discussed the
4 Court's requirements from the hearing. We immediately modified the practice at Ramey LLP
5 such that
6

- 7 - For all matters, only admitted attorney's names are on pleadings, whether as a
8 member of the bar or by *pro hac* and
- 9 - No longer is an attorney be listed on pleadings as *pro hac vice anticipated* or
10 otherwise unless admitted.
11

12 11. I did not intend for the use of *pro hac vice* anticipated to indicate that I was
13 practicing law in California or aiding another's practice of law other than acting as support for
14 patent review. It has always been the practice of Ramey LLP to support and work under the bar
15 admission of Susan Kalra on cases pending in California. I am not aware of any case where Ms.
16 Kalra was not listed as the attorney of record but I acknowledge that I filed only a single *pro hac*
17 *vice* application.
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19 12. A decision was made by Mr. Ramey to attempt reduce costs on cases that
20 resolved quickly, by not automatically filing a request for *pro hac vice* admission. I always
21 intended to file a motion *pro hac vice* in any case where I was tasked with any more than
22 reviewing a relevant patent, the patent's claims, and an accused product.
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25 13. I did not intend to an violate an ethical rule of the California State Bar, Rule of
26 Practice of this Court, or an ethical rule or rule of practice of any other State Bar, licensing
27 authority or court and I acknowledge that my prior prior practice was in error and I have corrected
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1 that issue. However, at all times, Ms. Kalra was acting as lead attorney on all California matters
2 and William Ramey and I were practicing under her license. Further, I and Mr. Ramey are
3 licensed by the United States Patent & Trademark Office. Therefore, it is my understanding that
4 I and Mr. Ramey are authorized to advise Koji on issues of claim scope, validity, and claim
5 coverage as it relates to the '703 patent. With respect to the pleadings in California, we advised
6 Ms Kalra with respect to the '703 patent while working under the license of Ms. Kalra. Ms
7 Kalra, while having years of experience in practicing before the California courts is not licensed
8 by the USPTO.
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11 14. Ms. Kalra, beginning in the Spring of 2022 experienced some personal issues.
12 Mr Ramey advised leaving the signature block of Ramey and/or Kubiak on pleadings for Notice
13 functions in an effort to assist Ms Kalra. I acquiesced and thereafter did not police the use of my
14 name in the pleading. While I did not intend to flout the rules of the court but rather work with
15 a colleague going through a difficult period and making sure no filing got missed, I made a
16 mistake. There was no deceptive intent involved or intent to indicate that I or Mr. Ramey was
17 licensed to practice law in California. Further, Ms. Kalra was not aiding or abetting the
18 unauthorized practice of law as she was always licensed.² Each of Susan Kalra, William Ramey,
19 and I do not believe referral to a state bar, licensing authority or court for discipline is necessary.
20 The conduct will not happen again and each lawyer apologizes to the Court. There was no intent
21 by any lawyer at Ramey LLP to violate any ethical rule of rule of the Court.
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28 ² Kalra Decl. at ¶4.

1 15. Ms. Kalra, while not involved with preparing the claim charts used in *Koji IP*
2 *LLC v Renesas Electronics America, Inc*, Case No. 3:23-cv-05752-LJC (N.D. Cal. Nov. 8, 2023),
3 was satisfied that they complied with Rule 11 because I was involved in the chart's preparation.³
4 Further, the chart has not been shown to frivolous to warrant a Rule 11 sanction, rather the chart
5 is well grounded in fact.
6

7 16. The claim chart prepared prior to the filing of the second lawsuit, filed on Nov 8,
8 2023, adopted a plain and ordinary construction of the claims terms, needing no further
9 construction. I then compared the construed claim terms to the accused devices as shown in
10 Exhibit G, Doc. No. 1-2.
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12 17. The charts compare each claim element of US10,790,703 ("the '703 patent") to
13 the accused device, Renesas' EVK Evaluation Kit: For the preamble of Claim 1:
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28 ³ Kalra Decl. at ¶6 & 24.

US10790703 B2 Claim 1	Renesas Electronics's EVK Evaluation Kit
1. A wireless power transfer system for wirelessly charging a powered device, comprising:	<div data-bbox="500 363 1328 405">  P9222-R-EVK Evaluation Kit Manual </div> <div data-bbox="500 457 641 489">Description</div> <p data-bbox="500 499 893 667">The P9222-R-EVK Wireless Power Evaluation Board can be used to demonstrate the features and performance of the P9222-R 5W Wireless Power Receiver in low power 2.5W applications such as in earbuds charging cases. The P9222-R-EVK can also supply up to 5W power. IOT's P9235A-RB-EVK Evaluation Board or any other Qi certified transmitter can be used as the power transmitter for P9222-R-EVK evaluation board testing.</p> <p data-bbox="500 678 893 877">The P9222-R-EVK demonstrates a high-efficiency, turnkey reference design and is supported by comprehensive online, digital resources to significantly expedite the design-in effort and enable rapid prototyping. The printed circuit board (PCB) has four layers. The total solution area (excluding coil) is approximately 70 mm² out of which 37 mm² is occupied by the components. A small 30×30mm power receiver coil is used in the design to meet small form-factor device requirements.</p> <p data-bbox="500 888 893 1108">Using the P9222-R Windows GUI and the P9222-R-EVK, customers can quickly customize operating parameters for their applications. Operating parameters such as foreign object detection (FOD) parameters can be configured by either writing to internal SRAM registers via the I2C interface, or by loading the user configuration generated by the P9222-R Windows GUI into an external EEPROM. The P9222-R-EVK has an on-board external EEPROM and connectors to plug-in the USB to an I2C programming dongle.</p> <div data-bbox="938 457 1047 489">Features</div> <ul data-bbox="938 499 1328 846" style="list-style-type: none"> ▪ WPC1.2.4 Baseline Power Profile (5W) compatible ▪ Design optimized for low power (2.5W) applications with 30×30mm coil ▪ Approximately 70mm² solution area ▪ Schematic and layout files are available online ▪ Works with the P9222-R Windows GUI ▪ Easy configuration of design parameters through I2C interface ▪ On-board external EEPROM for flexible design parameter updates ▪ J12 connector compatible with the "USB-FTDI-V2-1" (FTDI) and ARN16 USB-to-I2C dongles ▪ 4-layer PCB with 1oz copper <div data-bbox="938 867 1084 898">Kit Contents</div> <ul data-bbox="938 909 1328 930" style="list-style-type: none"> ▪ P9222-R-EVK Evaluation board including the coil assembly <div data-bbox="500 1119 1328 1373"> <p>© 2020 Renesas Electronics Corporation. All rights reserved.</p> <p>https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315</p> <p>Renesas Electronics's EVK Evaluation Kit is a wireless power transfer system for wirelessly charging a powered device.</p> <p>The reference includes subject matter disclosed by the claims of the patent after the priority date.</p> </div>

⁴ Koji identifies Defendant's accused product, Renesas' EVK Evaluation Kit, by web address and name, and with an explanation in red. Koji then compares the accused product to the preamble. For the next claim element, Koji identifies a product evaluation manual webpage from

⁴ Exhibit G; Doc. No. 1-2 at 2 of 5.

Defendant:

US10790703 B2 Claim 1	Renesas Electronics's EVK Evaluation Kit
a battery power source for supplying power to the wireless power transfer system;	<p>3.1 LDO Output Voltage (VOUT) Configuration</p> <p>This default VOUT voltage of the P9222-R-EVK is 5.0V. The user can change the default Vout voltage in accordance with specific user design requirements and store the modified configuration in the external EEPROM. or an external Applications Processor (AP) can adjust VOUT voltage continuously via the I2C interface. In addition, an external MCU can continuously read the battery voltage and change VOUT to lower the losses in the battery charger to optimize the total system efficiency. The P9222-R configurable Vout voltage range is from 3.5V to 12V.</p> <p><https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315></p> <p>The reference describes a battery power source for supplying power to the wireless power transfer system.</p>

⁵ Wherein Koji compares the claim limitation of a battery power source to the Defendants' references to battery power from Defendant's product evaluation manual webpage. For the next element, Koji includes another screenshot:

⁵ Exhibit G; Doc. No. 1-2 at 3 of 5.

US10790703 B2 Claim 1	Renesas Electronics's EVK Evaluation Kit
wireless communication circuitry for establishment of a close-range wireless communication over which a message associated with the powered device is communicated from the powered device; and	<p>3.4.1 Modulation Capacitor and Interrupt Enables</p> <p>The P9222-R sends the communication packets to the transmitter using ASK modulation of the coil voltage. For ASK modulation, the P9222-R switches the capacitors on and off that are on the COM1, COM2, CMA, and CMB pins using internal MOSFETs. By default, the P9222-R switches only the MOSFETs on the COM1 and COM2 pins. ASK modulation depth can be increased by enabling the switches on the CMA and CMB pins. Measure the modulation depth on the transmitter demodulation circuitry, and if too small, adjust the ASK modulation depth by enabling the CMA and CMB switches. Modulation depth can also be increased by increasing the capacitor value. The AP can also change the ASK modulation depth by writing to the ASK modulation depth Registers (0xF4).</p> <p>https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315</p> <p>The reference describes wireless communication circuitry for establishment of a close-range wireless communication over which a message associated with the powered device is communicated from the powered device.</p>

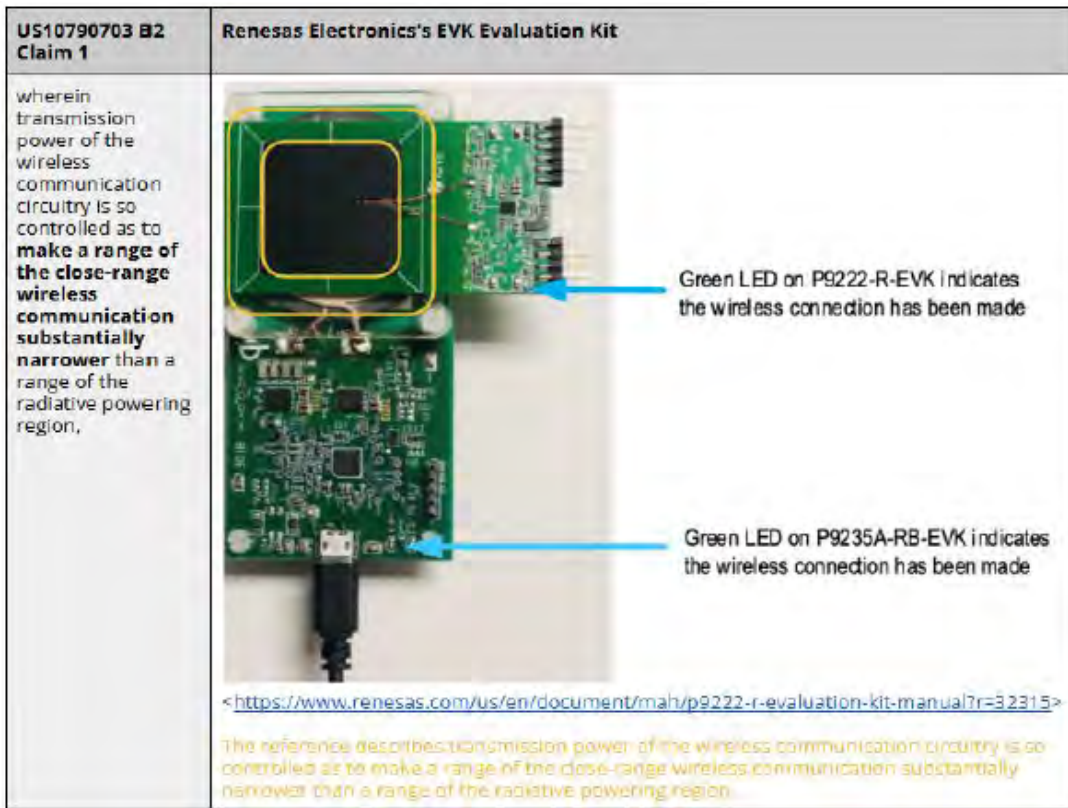
⁶ Wherein Koji compares the claim limitation of wireless communication circuitry requirement to Defendants' wireless communications circuitry and functionality from Defendant's product evaluation manual webpage. For the next element, Koji includes another screenshot:

⁶ Exhibit G; Doc. No. 1-2 at 3 of 5.

US10790703 B2 Claim 1	Renesas Electronics's EVK Evaluation Kit
<p>wireless powering circuitry including a transmitter configured to emit electromagnetic waves to form a radiative powering region within which the electromagnetic waves can be received by wireless powered circuitry of the powered device to generate power for charging a battery in the powered device, the wireless powering circuitry being configured to be activated when the close-range wireless communication is established,</p>	<p>3.4.1 Modulation Capacitor and Interrupt Enables</p> <p>The P9222-R sends the communication packets to the <u>transmitter</u> using ASK modulation of the coil voltage. For ASK modulation, the P9222-R switches the capacitors on and off that are on the COM1, COM2, CMA, and CMB pins using internal MOSFETs. By default, the P9222-R switches only the MOSFETs on the COM1 and COM2 pins. ASK modulation depth can be increased by enabling the switches on the CMA and CMB pins. Measure the modulation depth on the <u>transmitter</u> demodulation circuitry, and if too small, adjust the ASK modulation depth by enabling the CMA and CMB switches. Modulation depth can also be increased by increasing the capacitor value. The AP can also change the ASK modulation depth by writing to the ASK modulation depth Registers (Def4).</p> <p>https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315</p> <p>The reference describes wireless powering circuitry including a transmitter configured to emit electromagnetic waves to form a radiative powering region within which the electromagnetic waves can be received by wireless powered circuitry of the powered device to generate power for charging a battery in the powered device, the wireless powering circuitry being configured to be activated when the close-range wireless communication is established.</p>

⁷ Wherein Koji compares the claim limitation of wireless powering circuitry including a transmitter to Defendants' wireless communications wireless powering circuitry from Defendant's product evaluation manual webpage. For the next element, Koji includes another screenshot:

⁷ Exhibit G; Doc. No. 1-2 at 4 of 5.



⁸ Wherein Koji compares the limitation of close range wireless communication to the Defendants' close range wireless communications and in particular Defendant's indicate both portions of the EVK Evaluation Kit, the P9222-R-EVK and P9235A-RB-EVK in use together to achieve close range wireless communication. For the next element, Koji includes another screenshot:

⁸ Exhibit G; Doc. No. 1-2 at 4 of 5.

US10790703 B2 Claim 1	Renesas Electronics's EVK Evaluation Kit
<p>wherein the message is issued by the powered device when a battery level of the battery is below a predetermined threshold, and the wireless powering circuitry is configured to be activated in response to receipt of the message from the powered device over the established close-range wireless communication, and</p> <p>wherein, when the wireless power transfer system is powered by the battery power source, a determination is made whether a level of drop in a battery level of the battery power source in a given time period is below a threshold, so that activation of the wireless powering circuitry is allowed only when the level of drop is determined to be below the threshold.</p>	<p>3.2 Current Limit (ILIM) Configuration</p> <p>The current limit <u>threshold</u> value is used to limit the output current of main LDO on the VOUT pin. If the output current reaches the target limit value, the VOUT voltage level will decrease due to the current limit setting if the output load is over the current limit level. The default ILIM value of the P9222-R-EVK is 1.8A. The user can change the default current limit value in accordance with specific user design requirements and store the modified configuration into an external EEPROM. In addition, after the P9222-R enters the power transfer phase, an external AP can adjust the ILIM value by writing to the ILIM_Set register (0x3D) via the I2C interface. The P9222-R firmware reads the internal register value in regular time base and updates the current limit value. The current limit can be incremented in steps of 100mA.</p> <p style="text-align: center;">Current Limit (ILIM) = Decimal Value of 0x3D register * 0.1 (A) Equation 2</p> <p>The default Current Limit value can be configured by writing a configuration file into the external EEPROM. The configuration file can be generated using the P9222-R Windows GUI. For information on how the configuration file can be generated using the P9222-R Windows GUI, see "VOUT Configuration Change Using an External EEPROM."</p> <p>https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315</p> <p>The reference describes the message is issued by the powered device when a battery level of the battery is below a predetermined threshold, and the wireless powering circuitry is configured to be activated in response to receipt of the message from the powered device over the established close-range wireless communication.</p> <p>The reference describes when the wireless power transfer system is powered by the battery power source, a determination is made whether a level of drop in a battery level of the battery power source in a given time period is below a threshold, so that activation of the wireless powering circuitry is allowed only when the level of drop is determined to be below the threshold.</p>

⁹ Wherein Koji compares the power level claim limitation to Defendants' power level capabilities from its product evaluation manual webpage.

⁹ Exhibit G; Doc. No. 1-2 at 5 of 5.

18. Renesas disagreed with Koji's infringement analysis, in particular stating that the accused product, the EVK Evaluation Kit, did not include either a battery power source or a transmitter. However, Koji noted the the P2335A-RB-EVK is used as the transmitter in Renesas' EVK Evaluation Kit and that a battery is used for the EVK Evaluation Kit to function.

In fact, Renesas Electronics America's own document admits that Renesas product "P9235A-RB-EVK Evaluation Board or any other Qi certified transmitter can be used as the power transmitter", as shown below.

The P9222-R-EVK Wireless Power Evaluation Board can be used to demonstrate the features and performance of the P9222-R 5W Wireless Power Receiver in low power 2.5W applications such as in earbuds charging cases. The P9222-R-EVK can also supply up to 5W power. IDT's P9235A-RB-EVK Evaluation Board or any other Qi certified transmitter can be used as the power transmitter for P9222-R-EVK evaluation board testing.

<https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315>

10

US10790703 B2 Claim 1	Renesas Electronics's EVK Evaluation Kit
a battery power source for supplying power to the wireless power transfer system;	<p>3.1 LDO Output Voltage (VOUT) Configuration</p> <p>The default VOUT voltage of the P9222-R-EVK is 5.0V. The user can change the default Vout voltage in accordance with specific user design requirements and store the modified configuration in the external EEPROM. or an internal Applications Processor (AP) can adjust VOUT voltage continuously via the I2C interface. In addition, an external MCU can continuously read the battery voltage and change VOUT to lower the losses in the battery charger to optimize the total system efficiency. The P9222-R configurable Vout voltage range is from 3.5V to 12V.</p> <p>https://www.renesas.com/us/en/document/mah/p9222-r-evaluation-kit-manual?r=32315</p> <p>The reference describes a battery power source for supplying power to the wireless power transfer system.</p>

11

¹⁰ Exhibit E; Koji rebuttal of Renesas non-infringement position attached to August 1, 2023 e-mail chain.

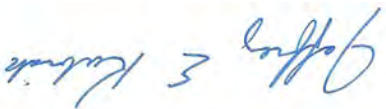
¹¹ Exhibit G; Doc. No. 1-2 at 3 of 5.

19. I used my best judgment at all times, to evaluate my Firm's and my position and modified that position to make the litigation less burdensome to all parties. Before filing the infringement action for the third time, a chart comparing a new product was prepared in collaboration between Mr. Ramey and Simon Sunatori. It is believed that this chart establishes the reasonableness of the pre-filing inquiry made in this patent infringement case under Rule 11. Further, the Federal Circuit has found that such an analysis is evidence of compliance with Rule 11 for a patent infringement case.

20. I relied on my over 20 years of experience in advising that we should refile the lawsuit. As with most propositions in the law, there are exceptions that allowed the refiling of a complaint, in cases where there is "a persuasive explanation for the course of litigation."¹² Here, the dismissal in Colorado was more akin to convenience and not a merits dismissal. Further, the third lawsuit charted a new product that had not been alleged as infringing in the prior suit.

21. Plaintiffs hire Ramey LLP and its lawyers for this experience, knowing how to conduct themselves in patent infringement litigation. However, given Defendant's counsels requests and comments that the sales volume of the newly charted product were low, the lawsuit was ultimately dismissed with prejudice. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 12, 2024.


Jeffrey Eugene Kubiak

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION**

KOJI IP, LLC,	§	
Plaintiff,	§	
	§	
V.	§	Civil Action No. 5:24-cv-03089
	§	
RENESAS ELECTRONICS AMERICA,	§	
INC.	§	
Defendant		

DECLARATION OF CARLOS GORRICHATEGUI

I, Carlos Gorrichategui, declare:

1. My name is Carlos Gorrichategui, and I am over the age of eighteen and competent to make this declaration. The facts stated herein are within my personal knowledge. If called upon, I could and would testify competently to them. I am currently president of Dynamic IP Deals LLC and manager of KOJI IP, LLC (a Texas limited liability company or “Texas LLC”).
2. On June 30, 2023, William Ramey and I to file the first complaint Civil Action No. 1:23-cv-01674 against RENESAS ELECTRONICS AMERICA, INC (“Renesas”).
3. On July 19, 2023, Jeff Kubiak communicated with us that Renesas raised certain issues with regard to the claim chart accompanying the complaint.
4. On Jul 31, 2023, at my direction, Simon Sunatori sent Jeff, William and me a technical rebuttal to the issues raised by Renesas.
5. William Ramey informed me that we would likely lose the venue motion and I authorized him to dismiss the Colorado, if we could refile elsewhere. I was informed the case would be refiled in California.

6. On November 8, 2023, William Ramey told us that a second case Koji IP v. Renesas Electronics America, Inc., Case No. 5:24-cv-03089 (N.D. Cal.) had been filed.
7. On Dec 22, 2023, William Ramey forwarded us a letter from Renesas where they alleged a very low sales volume of less than \$5,000 and certain technical issues with our infringement accusation. Based on the low sales volume I authorized the dismissal of the lawsuit due to the low sales volume.
8. On January 2, 2024, I and my team responded to Renesas technical issues.
9. Shortly thereafter, my team and I identified other infringing devices sold by Renesas and began developing claim charts.
10. On Feb 23, 2024, William Ramey told us that the second case was dismissed without prejudice due to low sales of the charted product.
11. On April 25, 2024, I told William Ramey that my team and I revisited the Renesas Electronics claim chart and wanted to seek damages on a new product we charted. I authorized the filing of the Third suit if we could. William Ramey informed me that we could file the Third lawsuit.
12. On May 31, 2024, William Ramey forwarded us "2024.05.31 Letter to Koji IP re third case.pdf" I discussed the matter with William Ramey and authorized him to dismiss the suit to avoid a fight on a motion for sanctions.
13. On June 12, 2024, William Ramey told me the case was dismissed.
14. Simon Sunatori is an independent contractor who works for Dynamic IP Deals LLC on a project basis. Mr. Sunatori is not an owner of Dynamic IP Deals LLC. Mr. Sunatori is not an employee or owner of KOJI IP, LLC.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 12th day of September, 2024 in Houston, Texas.



Carlos Gorrichategui, Ph.D

From: ECF-CAND@cand.uscourts.gov
Sent: Friday, September 20, 2024 1:21 PM
To: efiling@cand.uscourts.gov
Subject: Activity in Case 3:24-cv-03089-PHK Koji IP, LLC v. Renesas Electronics America, Inc. Show Cause Hearing

Follow Up Flag: Follow up
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U.S. District Court

California Northern District

Notice of Electronic Filing

The following transaction was entered on 09/19/2024 at 3:59:00 PM and filed on 09/19/2024

Case Name: Koji IP, LLC v. Renesas Electronics America, Inc.

Case Number: [3:24-cv-03089-PHK](#)

Filer:

Document Number: 30 (No document attached)

Docket Text:

****AMENDED** Minute Entry for proceedings held before Magistrate Judge Peter H Kang: Show Cause Hearing held on 9/19/2024.**

Discussion held regarding Plaintiff's Show Cause Response. Court to issue written order. Matter submitted by all Parties.

Total Time (Recorded via Liberty): 10:31-11:50am (1h 19m).

Plaintiff Attorney: Susan S.Q. Kalra.

Plaintiff Attorneys (Not Admitted PHV): William P. Ramey III, Jeffrey Kubiak.

Defendant Attorney: Jason Crotty.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KOJI IP, LLC,

Plaintiff,

v.

RENESAS ELECTRONICS AMERICA,
INC.,

Defendant.

Case No.: 3:24-cv-03089-PHK

**DECLARATION OF CARLOS
GORRICHATEGUI**

I, Carlos Gorrichategui, declare:

1. My name is Carlos Gorrichategui, and I am over the age of eighteen and competent to make this declaration. The facts stated herein are within my personal knowledge. If called upon, I could and would testify competently to them.
2. I am currently a manager of Plaintiff Koji IP LLC, a Texas limited liability company ("Koji"). Koji was formed to monetize certain patents, including U.S. Patent No. 10,790,703 ("the '703 patent"). Koji's inventor contacted me in 2021 to monetize his invention. I tried for about 2 years to license the '703 patent to companies but I was unable. I then turned to looking to enforce the '703 patent through patent infringement litigation.
3. In the fall of 2023, I approached William P. Ramey, III of the law firm Ramey LLP about enforcing the '703 patent against Renesas Electronic America, Inc. ("Renesas").
4. In my experience, there are very few law firms that will take patent infringement cases against companies like Renesas because of the high cost and repercussions. There was no money to pay the legal expenses and costs and we therefore needed a law firm to work solely on a contingent basis. Ramey LLP is one of the few that will work in such a manner.

5. After we filed the lawsuit in Colorado, Mr. Ramey informed me that Renesas was going to move to dismiss the case because it did not truly have an office in Denver. William Ramey informed me that we would likely lose the venue motion and I authorized him to dismiss the Colorado, if we could refile elsewhere. I was informed the case would be filed in California.
6. After the case was refiled in California, Mr. Ramey approached me reporting that the Defendant said the sales volume was very low. Based on the low sales volume, I instructed Mr. Ramey to dismiss the lawsuit.
7. Shortly after dismissal, I discovered a new product that did not appear to have been accounted for in the previous sales volume. I asked Mr. Ramey if we could file a new lawsuit against the new product and after we discussed the new product and looked at the claim charts, he told me he thought we could. I authorized the filing of the second lawsuit in California.
8. The Magistrate Judge's Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers (Document No. 42) ("Magistrate's Order") has greatly reduced the value of the '703 patent and made it very unlikely that I will be able to find another law firm to pursue Renesas and other defendants.
9. Prior to 2011, prior to Congress passing the American Invents Act ("AIA"), I was able to more readily license patents. However, the AIA created the Patent Trial and Appeal Board ("PTAB") at the United States Patent & Trademark Office ("USPTO") which has resulted in the devaluation of patents and increased the costs in asserting patent rights.
10. In my experience, Defendants would rather spend money seeking to invalidate patents at the PTAB rather than negotiate a license. In my experience, when a patent owner is faced with the possibility of losing its patent through invalidation at the PTAB or taking an artificially low settlement amount, the low settlement amount is taken to avoid the possibility of losing the patent.
11. In 2014, a second devaluation of patents occurred when the United States

Supreme Court issued its opinion *Alice Corp. v. CLS Bank Int'l*, 573 U.S. 208 (2014) (“Alice Decision”). Now, many patents are potentially invalid under the Alice Decision. In my experience, when a patent owner is faced with the possibility of losing its patent through invalidation from the Alice Decision or taking an artificially low settlement amount, the low settlement amount is taken to avoid the possibility of losing the patent.

12. As the licensing opportunities for patents have decreased, my client companies are forced to resort to litigation to enforce their patent rights. However, there are few law firms that will take these cases, few law firms who will help my client companies assert their First Amendment right to seek redress through the courts for patent infringement.
13. The Magistrate’s Order will have a further chilling effect on my ability to find a law firm willing to represent my client companies in asserting its First Amendment right to seek redress for patent infringement as the Magistrate’s Order sanctions the filing of a lawsuit without analysis of the merits of the infringement claim.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed: April 7, 2025



Carlos Gorrichategui, Ph.D.

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Submitted on behalf of William P. Ramey, III,
Susan Kalra and Jeffrey E. Kubiak*

**IN THE UNITED STATES DISTRICT COURT
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KOJI IP, LLC,

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**MOTION FOR RELIEF FROM
NONDISPOSITIVE PRETRIAL
ORDER OF MAGISTRATE JUDGE**

MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE

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1 *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815 (9th Cir. 2009)..... 9, 10, 12, 13, 16, 18, 19

2 *ZT IP, LLC v. VMware, Inc.*, No. 3:22-CV-0970-X, 2023 WL 1785769 (N.D. Tex. Feb. 6, 2023)..... 17

3 **Rules & Regulations**

4 Fed. R. Civ. P. 11 2, 5, 21

1 Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”)
2 and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) respectfully file this Motion
3 for Relief from Nondispositive Pretrial Order of Magistrate Judge,¹ specifically the Magistrate Judge’s
4 Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers (“Magistrate’s Order”).²

5 **I. OBJECTIONS**

6 **A. First Objection**

7
8 The Sanctioned Parties object to Magistrate Judge Kang deciding this matter as both parties,
9 Koji and Renesas Electronics America, Inc., did not consent while the case was open. The Magistrate’s
10 Order finding that both parties consented is in error.³ Plaintiff filed a consent on June 10, 2024, that
11 limited its consent to Final Judgment:

12
13 In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily consent to have a
14 United States magistrate judge conduct all further proceedings in this case, including trial and
15 entry of final judgment. I understand that appeal from the judgment shall be taken directly to the
United States Court of Appeals for the Ninth Circuit. 4

16 However, Defendant did not consent until June 26, 2024,⁵ which was after Final Judgment, after Plaintiff
17 voluntarily dismissed its case on June 12, 2024:⁶

18
19 [t]h[e] [filing of notice] itself closes the file. There is nothing the defendant can do to fan the
20 ashes of that action into life and the court has no role to play. This is a matter of right running
21 to the plaintiff and may not be extinguished or circumscribed by adversary or court. There is
22 not even a perfunctory order of court closing the file. Its alpha and omega was the doing of the
23 plaintiff alone. He suffers no impairment beyond his fee for filing.⁷

24 ¹ Pursuant to NDCA Local Rule 72.2.

25 ² Doc. No. 42; To the extent necessary, the Sanctioned Parties are also filing these objections as a
Motion for De Novo Determination of Dispositive Matter Referred to Magistrate Judge pursuant to
NDCA Local Rule 72.3..

26 ³ Doc. No. 42 at 1, lines 21-22 (“1:21-22”).

27 ⁴ Doc. No. 10.

28 ⁵ Doc. No. 20.

⁶ Doc. No. 12.

⁷ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999).

Thus, both parties did not consent before Final Judgment and jurisdiction was not conferred on Magistrate Judge Kang to issue orders not reviewable by the District Court. Where both parties have not consented, a magistrate judge does not obtain jurisdiction over a matter.⁸ Defendant's consent was not effective as it was after Final Judgment, the limit of Koji's consent. Therefore, whether considered a non-dispositive order or a dispositive order, the Sanctioned Parties request the District Court's consideration of these objections and reversal of the Magistrate's Order.

B. Second Objection

The Sanctioned Parties object to the Magistrate's Order awarding a monetary sanction because Rule 11 specifically excludes a monetary award under the facts of this case. Specifically, Rule 11 provides:

(c) Sanctions.

...

(5) Limitations on Monetary Sanctions. The court *must not impose a monetary sanction*:

(A) ...; or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.⁹

In the present case, Koji dismissed the lawsuit on June 12, 2024.¹⁰ The Show Cause Order was not issued until August 27, 2024.¹¹ Therefore, the literal language of Rule 11 does not allow the Court to impose a monetary sanction.¹² The Magistrate's Order is in error for issuing a monetary sanction. Likewise, the Court cannot resort to an inherent power sanction to do what it is prohibited from doing under the rules. The Sanctioned Parties request a reversal of the monetary sanction.

⁸ See, e.g., *Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 915 (9th Cir. 2003).

⁹ Fed. R. Civ. P. 11 (emphasis added).

¹⁰ Doc. No. 12.

¹¹ Doc. No. 27.

¹² Fed. R. Civ. P. 11(c)(5)(B).

C. Third Objection

The Sanctioned Parties object to the Magistrate's Order's finding that the filing of the present lawsuit violated Rule 11.¹³ The Magistrate's Order misapplies the law around a Rule 41(a) dismissal. The case of *Com. Space Mgmt. Co. v. Boeing Co.*¹⁴ makes clear that the determination of whether a third cause of action is allowable can only be made once a third cause of action is filed.¹⁵ The Magistrate's Order incorrectly begins with the premise that no third cause of action was permissible to file at all. The Colorado action was dismissed, after consulting with Renesas Electronics America, Inc. ("Renesas"), for venue and was then re-filed with a different venue assertion in the Northern District of California as *Koji IP, LLC v. Renesas Electronics America, Inc.* ("Koji II"), No. 3:23-cv-05752-LJC (N.D. Cal. Nov. 8, 2023), ECF No. 1. In filing Koji II, Koji changed its claim related to venue.¹⁶ However, based on low sales volumes the case was dismissed.¹⁷ After further diligence on a new product that was not accused in Koji II, Koji filed a new Complaint, *Koji IP, LLC v. Renesas Electronics America, Inc.* ("Koji III"), No. 5:24-cv-03089 (N.D. Cal. May 22, 2024), ECF No. 1.¹⁸

The Ninth Circuit has recognized cases where exceptions have been found to the two-dismissal rule.¹⁹ In Koji I, the defendant argued the case lacked venue. Rather than wasting resources fighting a venue challenge, the case was dismissed. At the time of dismissal, Defendant had already filed a motion to dismiss based on venue that attached evidence that it did not have a regular and established place of

¹³ Doc. No. 42 at 14-23.

¹⁴ 193 F.3d 1074, 1080 (9th Cir. 1999).

¹⁵ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

¹⁶ Doc. No. 24-2 at ¶¶14-15; *In re Hall, Bayou Associates Ltd.*, 939 F.2d 802, 806 (9th Cir. 1991)

¹⁷ Doc. No. 28-2 at pg 2cc from Koji II

¹⁸ Doc. No. 24-2 at ¶¶14-15.

¹⁹ *Lake at Las Vegas Invs. Grp., Inc. v. Pac. Malibu Dev. Corp.*, 933 F.2d 724, 727 (9th Cir. 1991).

1 business in Colorado.²⁰ Based on that evidence, the case was likely going to be dismissed even though
2 Defendant advertised it had an office in Denver.

3 The same patent infringement claims from the Colorado case were refiled in this District as Koji
4 II. Due to low sales, that case was soon dismissed.²¹ After further review, Koji III was filed on a
5 different Renesas product.²² It is reasonable that the two-dismissal rule does not apply to the present fact
6 situation or that an exception applies and it was error for the Magistrate's Order to decide otherwise.
7 Koji III is not the same case as Koji II, the prior California case, as Koji II accused a different product,
8 thus a different claim. Also, Koji II differed from the Colorado case, Koji I, as Koji II was in a different
9 venue from Koji I. The Ninth Circuit uses a "transactional approach for purposes of the two-dismissal
10 rule and hold that a subsequent claim is the same as a previously dismissed claim if it arises from the
11 same set of facts as the first action and the claim could have been or was raised in the preceding action."²³
12 The accused product in the present case is different than the accused product in the prior California case,
13 Koji II, the facts and thus the claim, differs and therefore the two dismissal rule would not apply, i.e. a
14 negative ruling, such as a finding of noninfringement in the first California action would not be res
15 judicata to the second California action as the second action accused a different product. It was error
16 for the Magistrate's Order to find that the Sanctioned Parties admitted the lawsuits, Koji II and Koji III,
17 were the same and for the Magistrate's Order to find that they were the same.²⁴ It was further error for
18 the Magistrate's Order to find bad faith based on the filing of the Koji III.²⁵ There can be no abuse of
19 the judicial system if the filing is warranted as it is here.²⁶ Further, the Magistrate's Order erred by
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25 ²⁰ Doc. No. 24-8; Declaration of Carlos Gorrichategui ("Gorrichategui Decl.") at ¶5.

26 ²¹ Doc. No. 24-2 at ¶¶12-15; Gorrichategui Decl. at ¶¶6-7.

27 ²² Doc. No. 24-2 at ¶¶5-15.

28 ²³ *Rose Ct., LLC v. Select Portfolio Servicing, Inc.*, 119 F.4th 679, 686 (9th Cir. 2024).

²⁴ Doc. No. 42 at 16-18.

²⁵ Doc. No. 42 at 24-25.

²⁶ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

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1 analyzing the subjective intent of the Sanctioned Parties as to whether they had case law to support what
2 they did “[b]ecause the frivolousness prong of Rule 11 is measured by *objective* reasonableness, [citation
3 omitted], whether [a party] actually relied on” the cases which show its claims aren't frivolous is
4 irrelevant. [citation omitted] The same rule must apply to the factual basis for a claim.²⁷ The commentary
5 on Rule 11 emphasizes that the Rule “is not intended to chill an attorney's enthusiasm or creativity in
6 pursuing factual or legal theories.”²⁸

7
8 The Sanctioned Parties further object to the Court Order's characterization that Ms. Kalra
9 provided no authority for filing the present lawsuit, Koji III, at the August 22, 2024, hearing and that
10 the Sanctioned Parties failed to perform an adequate prefiling investigation. Ms. Kalra's briefing
11 provided the authority, namely by arguing the response as filed. As it was a new product, new in that it
12 was a different product than was accused in Koji II, the briefing argued that the Sanctioned Parties used
13 technical resources, including both in-house and Simon Sunatori, to draft all claim charts in this matter.²⁹
14 When sales were found to be low on the original accused instrumentality, Sunatori located a new product
15 and helped develop the new claim charts.³⁰ Ramey LLP asserted the patents against the Renesas devices
16 only after collaboration with a technical expert who has over 25-years-experience with patents and
17 research and development.³¹ The Sanctioned Parties complied with Rule 11's requirements to file a
18 patent infringement case. The Third Action was asserted in a good faith belief that infringement existed
19 and still exists for the new product.³² There simply is no evidence that the lawsuits were not filed in
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25 ²⁷ *In re Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 434 (9th Cir. 1996)

26 ²⁸ *Operating Eng'rs Pension Tr. v. A-C Co.*, 859 F.2d 1336, 1344 (9th Cir. 1988) *citing* Fed.R.Civ.P. 11,
Notes of Advisory Committee on Rules.

27 ²⁹ Doc. No. 24-15, Declaration of Simon Sunatori (“Sunatori Decl.”) at ¶¶3, 8, 10-11.

28 ³⁰ Doc. No. 24-2 (Ramey Decl.) at ¶14.

³¹ Doc. No. 24-15 (Sunatori Decl.) at ¶7.

³² Doc. No. 24-2 (Ramey Decl.) at ¶14.

1 good faith.³³ Further, the evidence of record establishes that an adequate prefiling investigation was
2 made.

3 The Sanctioned Parties further object to the Magistrate's Order not considering whether Koji's
4 infringement claims brought in the present lawsuit complied with Rule 11. The Magistrate's Order does
5 not even cite to the Rule 11 standard for a patent infringement case as put forward in *View Eng'g, Inc.*
6 *v. Robotic Vision Sys., Inc.*³⁴ Here, the Sanctioned Parties did comply with Rule 11 by comparing the
7 accused *new* product to the claims of the '703 patent.³⁵ It was error for the Magistrate's Order not to
8 consider the infringement allegations when issuing a Rule 11 sanction. The Sanctioned Parties further
9 object the Magistrate's Order imposing a Rule 11 sanctions because the Magistrate's Order does not use
10 the proper standard. The Ninth Circuit recognizes an objective, analytic approach to Rule 11, a cause
11 of action is not "warranted by law" where no "plausible, good faith argument can be made by a
12 competent attorney" in support of the proposition asserted.³⁶ If there is any basis for a claim in law and
13 fact, there is no Rule 11 violation.³⁷ The Magistrate's Order erred in finding that the Third Action is the
14 same claim as the Second Action as the it accuses a different product.³⁸ The Sanctioned Parties further
15 object to the Magistrate's Order's finding that the Sanction Parties conduct was bad faith and akin to
16 civil contempt.³⁹ The Magistrate's Order did not consider all of the record evidence of the Sanctioned
17 Parties prefiling investigation.⁴⁰ Here, the Sanctioned Parties had a reasonable basis to file the lawsuit.
18 The Magistrate's Order commits error in comparing the fact situation of *Sanai v. Sanai*⁴¹ to the present
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24 ³³ See, e.g., *Checkpoint Sys., Inc. v. All-Tag Sec. S.A.*, 858 F.3d 1371, 1376 (Fed. Cir. 2017).

25 ³⁴ 208 F.3d 981, 986 (Fed.Cir.2000).

26 ³⁵ Doc. No. 1-2, *generally at claim chart*.

27 ³⁶ *Paciulan v. George*, 38 F. Supp. 2d 1128, 1144 (N.D. Cal. 1999), *aff'd*, 229 F.3d 1226 (9th Cir. 2000).

28 ³⁷ *Paciulan*, 38 F. Supp. 2d at 1144.

³⁸ Doc. No. 24-2 at ¶¶14-15.

³⁹ Doc. No. 42 at 24.

⁴⁰ Doc. No. 24-2 at ¶¶5-23; Doc. No. 24-15 at ¶¶7-11.

⁴¹ *Sanai v Sanai*, 408 F. App'x 1 (9th Cir. 2010).

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1 case where there were court orders dismissing the claims and then the sanctioned party refiled exactly
2 the same claims.⁴² The court in that case cited misconduct as it relates to court orders, including
3 “repeatedly filing notices of lis pendens in violation of the district court’s orders, failing to appear for
4 duly noticed depositions, failing to serve a defendant with a subpoena duces tecum seeking her financial
5 records from a third party, surreptitiously audio recording a defendant while simultaneously suing him
6 for wiretapping, and interfering with responses to subpoenas defendants served on plaintiffs’ health care
7 providers.”⁴³ Here, there were no court orders that were disobeyed by the Sanctioned Parties. Here, the
8 case was voluntarily dismissed. Further, there were different claims in each of Koji I, Koji II, and Koji
9 III. The Sanctioned Parties’ conduct is not even close or otherwise comparable to the conduct of the
10 counsel and party in *Sanai v. Sanai*,⁴⁴ and certainly does not rise to contempt of court. The Sanctioned
11 Parties request a reversal of the Rule 11 sanction.
12
13

14 **D. Fourth Objection**

15 The Sanctioned Parties object to Magistrate’s Order’s finding that Koji filed the same lawsuit
16 three times.⁴⁵ The first lawsuit was dismissed and refiled claiming a new venue in the Northern District
17 of California.⁴⁶ The third lawsuit claimed a different Renasas product of infringing the claims of the
18 Patent-in-Suit.⁴⁷ The Sanctioned Parties believed the lawsuit well founded as the first lawsuit was
19 dismissed on venue grounds.⁴⁸ Further, Mr. Ramey was aware of the law that allowed the refiling of
20 the exact cause of action provided a persuasive explanation justifies the filing without incurring exposure
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25 ⁴² *Id.* at 1, 2 (9th Cir. 2010).

26 ⁴³ *Sanai*, 408 F. App’x at 2.

27 ⁴⁴ 408 F. App’x at 2.

28 ⁴⁵ Doc. No. 42 at 2:12-28.

⁴⁶ Doc. No. 24-2 at ¶¶5-13.

⁴⁷ Doc. No. 24-2 at ¶¶14-15.

⁴⁸ Doc. No. 24-2 at ¶¶16-18.

1 to an award of fees under Rule 41(d).⁴⁹ Additionally, in Koji III, an entirely new product was accused
2 of infringement.⁵⁰ The law is clear that filing even the same lawsuit three time is not automatically
3 barred, that determination must be made in the later filed case.⁵¹ It was error for the Magistrate's Order
4 to conclude that the same lawsuit was filed three times. Such error caused the Magistrate's Order to
5 incorrectly find a violation of Rule 11.
6

7 **E. Fifth Objection**

8 The Sanctioned Parties object to the Magistrate's Order's finding that Mr. Ramey and Mr Kubiak
9 engaged in the unauthorized practice of law⁵² and that Ms. Kalra aided and abetted in the unauthorized
10 practice of law.⁵³ The Sanctioned Parties further object to the Magistrate's Order finding a violation of
11 the Court's authority under the Civil Local Rules.⁵⁴ Since beginning to work with the firm, Ms. Kalra
12 was the lead attorney in every case filed in California.⁵⁵ Therefore, a licensed California attorney was
13 always lead on the case and responsible for all filings. As a preliminary matter, the Sanctioned Parties
14 note that each firmly believed that what they were doing was well within the letter of the law, but more
15 importantly, the Sanctioned Parties instantly modified their behavior and discontinued the practices that
16 the Court said were improper.⁵⁶ As such, the conduct is not likely to be repeated and the conduct was
17 not thought to violate any ethical rule or rule of practice at the time it occurred.⁵⁷ As the actions were
18 not intentional violations, if a sanction is determined appropriate, a written reprimand is more
19 appropriate rather than the Magistrate's Order issuing sanctions that quiet likely will be career altering.
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23 ⁴⁹ *Milkcrate Athletics, Inc. v. Adidas Am., Inc.*, 619 F. Supp. 3d 1009, 1025 (C.D. Cal. 2022).

24 ⁵⁰ Doc. No. 24-2 at ¶¶14-15.

25 ⁵¹ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

26 ⁵² Doc. No. 42 at 27-33.

27 ⁵³ Doc. No. 42 at 27-33.

28 ⁵⁴ Doc. No. 42 at 33.

⁵⁵ Ex. A at 10:13-22; 31:16-34:9.

⁵⁶ Doc. No. 28-1 at ¶¶14, 20-23; Doc. No. 28-2 at ¶¶19-23; and, Doc. No. 28-15 at ¶¶10-14.

⁵⁷ Doc. No. 28-1 at ¶¶20-23; Doc. No. 28-2 at ¶¶20-23; and, Doc. No. 28-15 at ¶¶11-14.

1 In fact, Ms. Kalra has resigned from her new law firm over the Magistrate's Order.⁵⁸ As well, Mr.
2 Ramey has been censored by Gene Quinn of IP Watchdog at least in part because of the Magistrate's
3 Order.⁵⁹ IP Watchdog is removing previously published articles from Mr. Ramey and scrubbing his
4 profile from the website.⁶⁰ Damage has already been done by the Magistrate's Order. The Sanctioned
5 Parties request the District Court affirm these objections and vacate the Magistrate's Order.
6

7 **F. Sixth Objection**

8 The Magistrate's Order is in error and does not properly address how the Ninth Circuit
9 determines whether a lawyer is practicing law in California. The caselaw provides that the State
10 Supreme Court in California views that for conduct to be the practice of law in California it must entail
11 sufficient contact with a *California* client to render the nature of the legal service a clear legal
12 representation and the nature of the unlicensed lawyer's activities in the state must be examined.⁶¹
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14 Mere fortuitous or attenuated contacts will not sustain a finding that the unlicensed lawyer
15 practiced law in California. The primary inquiry turns on whether the unlicensed lawyer engaged in
16 sufficient activities or created a continuing relationship with a *California* client that included legal duties
17 and obligations.⁶² The Ninth Circuit went on to distinguish the facts from the California Supreme Court
18 case finding that the legal services of a lawyer wholly performed in a state other than California were
19 not the unauthorized practice of law as the legal services had more to do with an issue of federal ERISA
20 law than state law.⁶³ Likewise, the Court in *Winterrowd* further found that out of state lawyer was not
21 practicing law in California because the arrangement the out of state lawyer had with the in state lawyer
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25 ⁵⁸ Declaration of Susan S.Q. Kalra ("Kalra Decl.") at ¶3.

26 ⁵⁹ Ex. E, Ramey Decl. at ¶10.

27 ⁶⁰ Putting aside likely FTC violation, the journalistic integrity of IP Watchdog is highly questionable.

28 ⁶¹ *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 821–23 (9th Cir. 2009).

⁶² *Winterrowd*, 556 F.3d at 821–23.

⁶³ *Winterrowd*, 556 F.3d at 821–22.

1 was more like a partnership, which is exactly the situation of the present case, Ms. Kalra was the
2 California lawyer on the case and responsible as lead attorney.⁶⁴ For all practical purposes, the
3 arrangement between Mr. Ramey, Mr. Kubiak and Ms. Kalra is analogous to a partnership for the
4 prosecution of the patent infringement claim against the Defendant which is similar to the type of
5 partnership found in *Winterrowd*.⁶⁵ The Ninth Circuit found it very relevant if one of the lawyers
6 performing the work is licensed in California.⁶⁶

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8 The Ninth Circuit went further and held that state law was not determinative of whether a lawyer
9 practicing in federal court is authorized to practice and recognized that an out of state lawyer could
10 always seek admission by *pro hac vice* admission.⁶⁷ The Magistrate's Order did find that each of Mr.
11 Ramey and Mr. Kubiak were regularly practicing law in California but without any specificity as to
12 what acts constituted the practice of law in California and thus in error.⁶⁸ That Mr. Ramey and Mr.
13 Kubiak appeared on pleadings with the modifier "*pro hac vice anticipated*" or the like is precisely the
14 type of attenuated contact that the California Supreme Court said would not support that either was
15 practicing law in California.⁶⁹ In fact, the modifier makes it very clear that both are not licensed. The
16 Sanctioned Parties object to the lack of what activities constituted the unauthorized practice of law as
17 the Ninth Circuit has approved the type of partnership that Ms. Kalra worked with other lawyers at
18 Ramey LLP.⁷⁰ The Sanctioned Parties request the District Court vacate this finding.

21 G. Seventh Objection

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25 ⁶⁴ *Id.*

26 ⁶⁵ *See, e.g., Id.* at 821–23.

27 ⁶⁶ *See, e.g., Id.* at 822.

28 ⁶⁷ *See, e.g., Id.* at 823.

⁶⁸ Doc. No. 42 at 32–33.

⁶⁹ *See, e.g., Winterrowd*, 556 F.3d at 821–23.

⁷⁰ *See, e.g., Winterrowd*, 556 F.3d at 821–22.

1 The Sanctioned Parties further object to the Magistrate's Order's finding that Mr. Ramey's
2 declaration is not accurate.⁷¹ Exhibit B to this response is a true and accurate listing of all 56 cases
3 identified by the Magistrate's Order from the Northern District of California ("NDCA"), providing
4 columns for (1) Case Number 1 – 56; (2) Case name; (3) Case Filing No.; (4) Filing Date; (5) Counsel
5 for Plaintiff and Defendant; (6) whether a lawyer not licensed in CA was on pleadings; (7) whether the
6 identified "*pro hac vice*" or similar modifier was used; (8) whether a "*pro hac vice*" application was
7 filed in the case for a Ramey Firm lawyer; (9) Whether case was transferred from another District to
8 NDCA and the date; and, (10) the date the case was closed.⁷²

10 Cases 8, 22-42, 44-49, 51 and 52 were all filed in California with a licensed California lawyer
11 as lead counsel.⁷³ Non-licensed California lawyers were also on one or more pleadings using the
12 identifier "*pro hac vice anticipated*" or something very similar. The practice was thought to conform to
13 the local rules.⁷⁴ However, after the August 22, 2024, hearing in this matter, the practice was stopped
14 and is not going to be repeated.⁷⁵ The practice was not thought to be the unauthorized practice of law
15 because the use of the qualifying language is a clear statement that the lawyer is not licensed in
16 California. If the cases progressed, a motion *pro hac vice* was filed, as in cases 22-24, 39, 49, 51, and
17 52.⁷⁶ In all cases that originated in California, a California lawyer was in charge as lead counsel.⁷⁷ Any
18 unlicensed California lawyers were providing case support regarding the highly specialized nature of
19 patent litigation and not on issues of California state law.⁷⁸ None of the clients represented in any of the
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24 ⁷¹ Doc. No. 42 at 31.

25 ⁷² Declaration of William P. Ramey, III ("*Ramey Decl.*") at ¶18.

26 ⁷³ Ex. B at case numbers 8, 22-42, 44-49, 51 and 52.

27 ⁷⁴ Doc. No. 28-1 at ¶¶ 20-23; Doc. No. 28-2 at ¶¶20-23; and, Doc. No. 28-15 at ¶¶11-14.

28 ⁷⁵ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

⁷⁶ Ex. B at 22-24, 39, 49, 51, and 52

⁷⁷ Doc. No. 28-1 at ¶¶ 2, 20-23; Doc. No. 28-2 at ¶¶20-23; and, Doc. No. 28-15 at ¶¶11-14.

⁷⁸ See, e.g., *Winterrowd*, 556 F.3d at 821–23.

56 cases are organized in California or otherwise domiciled therein.⁷⁹ The cases were filed in California because venue in patent infringement cases is restrictive and venue was proper in California.⁸⁰

Cases 1-7, 9-21, 43, 50, and 53-56 were all transferred to California from another court.⁸¹ Non-licensed California lawyers were also on one or more pleadings using the identifier “*pro hac vice anticipated*” or something very similar. The practice was thought to conform to the local rules.⁸² However, after the August 22, 2024, hearing, the practice was stopped and is not going to be repeated.⁸³ The practice was not thought to be the unauthorized practice of law because the use of the qualifying language is a clear statement that the lawyer is not licensed in California. If the cases progressed, a motion *pro hac vice* was filed, as in cases 2, 9, 10, 53-56.⁸⁴

Transferred case numbers 6, 7, and 50 do not provide for a lead California lawyer. In case 6, a Case Management Conference document was filed by Defendant that included Mr. Ramey’s signature block⁸⁵ and then the case was dismissed.⁸⁶ Case 6 lasted about 5 months in this District and there was no activity beyond the court required CMC. In Case 7, the case was transferred from the Western District of Texas, but counsel for Plaintiff did not appear in the case or file any document, not even an opposition to the motion to stay.⁸⁷ For case 50, no document was filed by Plaintiff and thus no appearance was made. Defendant’s counsel filed two stipulations with Mr. Ramey’s signature block,

⁷⁹ Ramey Decl. at ¶4.

⁸⁰ Ramey Decl. at ¶¶4, 19.

⁸¹ Ex. B at case numbers 1-7, 9-21, 43, 50, and 53-56, looking at column “Date of Transfer.”

⁸² Doc. No. 28-1 at ¶¶ 20-23; Doc. No. 28-2 at ¶¶20-23; and, Doc. No. 28-15 at ¶¶11-14.

⁸³ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

⁸⁴ Ex. B at 2, 9, 10, and 53-56; Ramey Decl. at ¶20.

⁸⁵ Ex. G, Doc. No. 88 from3:20-cv-000483-VC; Ramey Decl. at ¶5.

⁸⁶ Ex. H, Doc. No. 91 from3:20-cv-000483-VC; Ramey Decl. at ¶5.

⁸⁷ Ex. I, Doc. No. 63 from 4:23-cv-01852-JST (Defendant’s notice that plaintiff did not oppose stay); Ramey Decl. at ¶6.

one agreeing to an extension⁸⁸ to answer and one agreeing to a dismissal due to settlement.⁸⁹ Case 50 lasted about one month in this District and in fact was in the process of being settled by a third party during the transfer process. Cases 54-56 were consolidated with John Thomas as lead counsel and Mr. Ramey did in fact file a *pro hac vice* in case 54.⁹⁰ As the cases were consolidated, it was not believed that a *pro hac vice* was required in the other two cases. For all other cases, any unlicensed California lawyer was providing case support regarding the highly specialized nature of patent litigation and not on issues of California state law.⁹¹ None of the clients represented are organized in California or otherwise domiciled therein.⁹² The cases were transferred to California and not filed there.⁹³

The Magistrate's Order commits error by finding that Mr. Ramey and Mr. Kubiak were engaged in the unauthorized practice of law and that Ms. Kalra aided and abetted that practice as the contacts are attenuated. The Sanctioned Parties formed a partnership where Ms. Kalra handled the state law matters and Mr. Ramey and Mr. Kubiak delivered highly specialized advice on federal patent litigation.⁹⁴ Further, much like in *Winterrowd*, if required, there is no reason Mr. Ramey or Mr. Kubiak would not be admitted *pro hac vice*. Both are members in good standing with the Texas State Bar⁹⁵ and each have over 25 years practice.⁹⁶ As in *Spanos*, there has been "no suggestion of any unlawyerlike conduct on his part," prior to the Magistrate's Order.⁹⁷ While the Magistrate's Order does make a finding that Mr. Ramey and Mr. Kubiak are regularly engaged in the practice of law in California,⁹⁸ which might

⁸⁸ Ex. J, Doc. No. 16 from 5:21-cv-07812-EJD; Ramey Decl. at ¶7.

⁸⁹ Ex. K, Doc. No. 20 from 5:21-cv-07812-EJD; Ramey Decl. at ¶7.

⁹⁰ Ex. L.

⁹¹ *See, e.g., Winterrowd*, 556 F.3d at 821–23.

⁹² Ramey Decl. at ¶4.

⁹³ Ramey Decl. at ¶¶4, 21.

⁹⁴ *See, e.g., Winterrowd*, 556 F.3d at 821–23.

⁹⁵ Ramey Decl. at ¶8.

⁹⁶ Ramey Decl. at ¶9.

⁹⁷ *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 168 (2d Cir. 1966).

⁹⁸ Doc. No. 42 at 28.

1 disqualify each from *pro hac vice* admission under Civil L.R. 11-3(c), the record evidence is believed
2 to show only attenuated contact on the highly specialized area of patent litigation. The evidence of
3 record is that a California lawyer was lead counsel for all cases, except for the three transferred cases
4 discussed above that were very short lived and in the process of being dismissed at the time of transfer.⁹⁹
5 The developed record does not indicate that Mr. Ramey or Mr. Kubiak would have been denied
6 admission *pro hac vice* at the time of each of the 56 cases. Moreover, to the extent the Magistrate's
7 Order seeks to limit Koji from using any of the Ramey Firm lawyers, the privileges and immunities
8 clause of the U.S. Constitution prohibits a state from denying a citizen with a federal claim or defense
9 from engaging an out-of-state lawyer to collaborate with an in-state lawyer and give legal advice
10 concerning it within the state.¹⁰⁰ The Sanctioned Parties further object to the Magistrate's Order's
11 findings that they violated the Civil Local Rules¹⁰¹ for the reasons provided herein. The Sanctioned
12 Parties request that the District Court vacate the Magistrate's Order's finding that Mr. Ramey and Mr.
13 Kubiak were engaged in the unauthorized practice of law and that Ms. Kalra aided and abetted that
14 practice and that each should be sanctioned pursuant to the Court's inherent authority, the Court's
15 authority under the Civil Local Rules, and the Court's authority under Rule 11 and applicable law as
16 sufficient justification has been shown or at least less severe sanctions should be issued.¹⁰²
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20 **H. Eighth Objection**

21 The Sanctioned Parties further object to the Magistrate's Order's finding that Mr. Kubiak
22 regularly engages in the unauthorized practice of law in California. Exhibit C to this response is a true
23 and accurate listing of all 17 cases identified by the Magistrate's Order from the Northern District of
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26 ⁹⁹ Ramey Decl. at ¶¶5-7.

27 ¹⁰⁰ *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 170 (2d Cir. 1966).

28 ¹⁰¹ Doc. No. 42 at 33.

¹⁰² Doc. No. 42 at 33.

1 California (“NDCA”), providing columns for (1) Case Number 1 – 17 and name; (2) Case filing number;
2 (3) Case Filing date; (4) California counsel for Plaintiff; (5) Whether or not Kubiak was on any
3 California pleading; (6) whether the identified “pro hac vice” or similar modifier was used; (7); whether
4 a “pro hac vice” application was filed in the case for Kubiak (8) Whether case was transferred from
5 another District to NDCA; and, (9) the date the case was closed. Cases 1, 2, 4 - 8, and 1 - 14 were all
6 originally filed in California with a licensed California lawyer as lead counsel. Kubiak was listed on
7 the initial pleading in cases 1, 2, 4 – 7, and 10. Kubiak was listed on the jury request in cases 8, and 1
8 – 14. None of the plaintiff’s in cases 1 – 17 were California entities. Kubiak was listed on the cases in
9 the event that his expertise might be needed and in such an event a pro hac vice application would be
10 filed. In cases 3, 9, and 15 – 17 the cases were transferred to California by other courts. While Kubiak
11 appeared in the foreign courts, no document was filed in a California court with Kubiak’s name attached
12 with the exception of case 9, SmartWatch Mobile Concepts, LLC v. Google, LLC, 3:24-cv-00937 which
13 was transferred in and Kubiak filed and was granted a pro hac vice admittance. The Magistrate’s Order
14 further lists Kubiak as “lead attorney” in cases 3, 15 and 16.¹⁰³ Each of the cases was transferred from
15 a foreign court to California and in which Mr Kubiak had no contact, including any listing on any
16 document filed in California, with the case once transferred to California. Further, in all cases, a
17 California lawyer was in charge as lead counsel. To the extent that Kubiak had any contact with a case
18 other than cases 3, and 15 – 17 such support was limited to the highly specialized nature of patent claim
19 construction and claim chart analysis and not on issues of California state law.

20 **I. Ninth Objection**

21 The Sanctioned Parties object to the Magistrate’s Order referencing other cases where sanctions
22 have been awarded or discussed as there is no explanation of the relevance of the other sanctions or
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24 ¹⁰³ Doc. No. 42 at 8 and 9.

1 discussions of sanction.¹⁰⁴ Further, the Sanctioned Parties object to the Magistrate's Order's citation to
2 *Nimitz Techs. LLC v. CNET Media, Inc.*, No. CV 21-1247-CFC, 2022 WL 17338396, at *7-8 (D. Del.
3 Nov. 30, 2022), as Mr. Ramey was not counsel in that case. Rather, the discussion concerned a Delaware
4 attorney, Mr. Chong.¹⁰⁵ As such, the consideration of an unrelated attorney's conduct as supporting a
5 sanction of the Sanctioned Parties is in error. The Sanctioned Parties further object to the Magistrate's
6 Order's consideration of a sanction awarded in *mCom IP, LLC v. City Nat'l Bank of Fla.*, No. 23-23427-
7 Civ-Scola/Lett, 2024 U.S. Dist. LEXIS 43754 (S.D. Fla. Mar. 11, 2025). While the Magistrate's Order
8 finds the cases similar, no specifics are provided on what makes the cases similar. In fact, there was not
9 a finding in the other case that Mr. Ramey or any other of the Sanctioned Parties had appeared on behalf
10 of mCom in the Florida case. Likewise, the case is on appeal and therefore the sanction order is capable
11 of being modified or vacated. It violates the Sanctioned Parties due process rights to consider other
12 sanctions orders that are capable of being modified or vacated to support a sanction in this case. Further,
13 Ms. Briant is lead counsel for mCom in the Florida case and Mr. Ramey's role was limited to support
14 and any work he performed was filtered through Ms. Briant as the in-state attorney.¹⁰⁶

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17 The Sanctioned Parties further object to the Magistrate's Order considering *ESCAPEX IP, LLC*
18 *v. GOOGLE LLC*, No. 23-CV-10839 (VSB) (VF), 2025 WL893739, at *10-11 (S.D.N.Y. Mar. 24, 2025)
19 as establishing a pattern supporting a sanction.¹⁰⁷ The Magistrate's Order notes that sanctions have been
20 handed down on a variety of issues nationwide against Mr. Ramey, Ms. Kalra and clients,¹⁰⁸ but then
21 makes the unsupported statement that such different issues establish a pattern of behavior. It appears
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25 ¹⁰⁴ Doc. No. 42 at 12-13.

26 ¹⁰⁵ *Nimitz Techs. LLC v. CNET Media, Inc.*, No. CV 21-1247-CFC, 2022 WL 17338396, at *7-8 (D.
27 Del. Nov. 30, 2022).

28 ¹⁰⁶ See, e.g., *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 823-24 (9th Cir. 2009).

¹⁰⁷ The Sanctioned Parties further note that the New York Order is objected to by objections filed April
7, 2025 and therefore subject to change and not currently a district court order.

¹⁰⁸ Doc. 42 at 12-13.

1 the conduct sought to be deterred is suing companies for patent infringement, each of the Ramey Firm's
2 clients protected First Amendment Right,¹⁰⁹ if so, is in error, and does not provide enough specificity to
3 establish a pattern. Likewise, the Sanctioned Parties object to the Magistrate's Order's consideration of
4 the sanctions in *EscapeX IP LLC v. Google LLC*, No. 22-cv-08711-VC, 2024 WL 557729, at *1 (N.D.
5 Cal. Feb. 12, 2024) and *VDPP, LLC v. Volkswagen Grp. of Am., Inc.*, No. H-23-2961, 2024 WL
6 3856797, at *2 (S.D. Tex. Aug. 13, 2024), as both are currently on appeal and subject to change. The
7 Sanctioned Parties further object to the Magistrate's Oder reliance on *See ZT IP, LLC v. VMware, Inc.*,
8 No. 3:22-CV-0970-X, 2023 WL 1785769, at *3 (N.D. Tex. Feb. 6, 2023) as supporting a rule 11 sanction
9 (or other sanction)¹¹⁰ as that case concerned a sanction under §285. It is error for the Magistrate's Order
10 to consider these other sanctions as supporting a sanction in this case without more specific factual
11 findings specifying what conduct establishes the pattern, as rule 11 only applies to the filing of
12 pleadings.¹¹¹ Further, it was error for the Magistrate's Order to sanction based on other sanctions when
13 it provided "Mr. Ramey's and the Ramey law firm's long history of repeated instances of rules violations
14 and noncompliance impacts the Court's decision regarding the imposition of sanctions here."¹¹² The
15 Magistrate's Order, in error, appears to attack the Sanctioned Parties subjective intent through the use
16 of the phrase "conscious decision to avoid the application fees."¹¹³

17 Mr. Ramey and Mr. Kubiak admit that they included their names on pleadings with the modifier
18 "pro hac vice anticipated" following their name. Such practice was stopped after the August 22, 2024,
19 hearing in this matter.¹¹⁴ Until the Court raised the issue, the Sanctioned Parties did not believe an

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25 ¹⁰⁹ See, e.g., *Talamini v. All-State Insurance Co.*, 470 U.S. 1067, 105 S.Ct. 1824, 1827–28, 85 L.Ed.2d 125 (1985).

26 ¹¹⁰ Doc. No. 42 at 32.

27 ¹¹¹ *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1130 (9th Cir. 2002).

28 ¹¹² Doc. No. 42 at 31.

¹¹³ Doc. No. 42 at 31.

¹¹⁴ Ex. A at 5:12-20; 7:3-14.

1 appearance was being made when the modifier “pro hac vice” was used as it was intended to clearly
2 indicates that the attorney is not a California lawyer. At the September 24, 2024, hearing, Mr. Ramey
3 explained to the Court that the use of “pro hac vice anticipated” was for two primary reasons, to save
4 expense and to help Ms. Kalra who was going through a difficult time.¹¹⁵ However, the Magistrate’s
5 Order, in error, does not acknowledge these facts. Ms. Kalra is a licensed California attorney, was
6 responsible for all work, was lead counsel and appeared at all hearings in this matter.¹¹⁶ The Ninth
7 Circuit does recognize that out-of-state lawyers can provide support to licensed California lawyers
8 without filing for pro hac vice.¹¹⁷ It is the manner of the out of state lawyer’s conduct that controls.
9 Here, there is no evidence that Ms. Kalra was not lead counsel for the various plaintiffs, that Mr. Ramey
10 and Mr. Kubiak were not simply providing legal services in support of Ms. Kalra. In fact, all evidence
11 is that Ms. Kalra was lead counsel for all California matters.¹¹⁸ Further, the evidence of record shows
12 that Mr. Ramey and Mr. Kubiak would enter an appearance as a case progressed.¹¹⁹ The Sanctioned
13 Parties further object to the Magistrate’s Order not making any accommodation for Ms. Kalra. The
14 evidence of record is that she was having a difficult time starting in 2023 because of her divorce.¹²⁰ To
15 guard against missing any ECF filings, the Sanctioned Parties maintained the practice of using “pro hac
16 vice anticipated”¹²¹ which allowed Mr. Ramey and Mr. Kubiak to receive notice of case activity via the
17 court’s ECF system. Certainly, the rules allow for accommodation to help a fellow attorney. This is not
18 a case where any of the Sanctioned Parties falsified a document or otherwise indicated they were
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24 ¹¹⁵ Ex. A at 5:20-6:3; 28:2-16.

25 ¹¹⁶ Ex. A at 10:13-22; 31:16-34:9.

26 ¹¹⁷ See *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 823–24 (9th Cir. 2009); Ex. A at 28:24-29:17.

27 ¹¹⁸ Ex. A at 28:24-29:17.

28 ¹¹⁹ Ex. A at 36:15-24.

¹²⁰ Doc. No. 28-2 at ¶23; Doc. No. 28-1 at ¶¶6-9; 20-23.

¹²¹ Doc. No. 28-2 at ¶23; Doc. No. 28-1 at ¶¶20-23.

MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE

1 California lawyers. In fact, Mr. Ramey and Mr. Kubiak made it very clear that they were not California
2 lawyers by using “*pro hac vice anticipated*.” Further, neither Koji nor any of the other plaintiff entities
3 in the other cases were California entities. The plaintiff entities, including Koji, were required to file in
4 California or the case was transferred to California for venue reasons specific to patent cases under Title
5 35 of the U.S. Code. Mr. Ramey and Mr. Kubiak provide highly specialized services to their clients
6 related to federal patent law and any legal issues discussed have very little to do with California law.
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8 It is undisputed that neither Mr. Ramey nor Mr. Kubiak ever appeared in court on the current
9 case until required by the Show Cause Order.¹²² While Mr. Ramey and Mr. Kubiak were involved in
10 settlement discussions with defendants, such discussions were related to the patent infringement aspects
11 of the case raised by Renesas.¹²³ Both Mr. Ramey and Mr. Kubiak are licensed patent agents by the
12 United States Patent & Trademark Office and allowed to advise client across the nation on limited
13 matters on issues of claim scope, validity, and claim coverage as it relates to the claims of the ‘703
14 patent.¹²⁴ Ms. Kalra, who while having years of experience in analyzing patent claim scope is not
15 licensed by the USPTO.¹²⁵ The facts of the present case are very much like the facts from *Winterrowd*¹²⁶
16 where the out of state lawyer was found to be permissibly practicing law. The Magistrate’s Order erred
17 in not reaching the same result. The Sanctioned Parties request the District Court sustain this objection
18 and declare that the Sanctioned Parties are not practicing law without a license or aiding and abetting.
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25 ¹²² Doc. No. 27.

26 ¹²³ See, e.g., *Winterrowd*, 556 F.3d at 821–23.

27 ¹²⁴ *Shopify Inc. v. Express Mobile, Inc.*, No. 20-MC-80091-JSC, 2020 WL 4732334, at *5 (N.D. Cal.
28 Aug. 14, 2020) (recognizing that individuals licensed by the USPTO may give opinions as to
infringement).

¹²⁵ Doc. No. 28-2 (Ramey Decl.) at ¶22; Doc. No. 28-1(Kalra Decl.) at ¶ 5.

¹²⁶ 556 F.3d at 821–22.

1 The Sanctioned Parties further object to the Magistrate's Order issuing sanctions on closed cases.
2 Each of cases 1-8; 10-17; 19-23; 25-38; 40; and, 42-56 are closed.¹²⁷ The closed cases were managed
3 by different judges who had the right to control its own case as each court saw fit. The Magistrate's
4 Order assumes that each of the closed cases would have reached this result. It was error for the
5 Magistrate's Order to consider the closed cases as a basis for sanctioning the Sanctioned Parties. For
6 the open cases, any sanction should be left to the court handling the matter as that court is more familiar
7 with the facts of the case. It was error for the Magistrate's Order to base its sanction on conduct on
8 cases currently and previously before other courts.
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10 **J. Tenth Objection**

11 The Sanctioned Parties object to the Magistrate's Order finding a sanction is warranted under
12 the Court's inherent power. To impose sanctions under its inherent authority or potentially award
13 attorneys' fees under Rule 41(d), a court must "make an explicit finding that counsel's conduct
14 constituted or was tantamount to bad faith."¹²⁸ The Magistrate's Order erred when it found bad faith of
15 the Sanctioned Parties filing the Third Action, Koji III,¹²⁹ as caselaw specifically allows the filing of the
16 Third Action¹³⁰ and without sanction provided a persuasive explanation is provided as to why it was
17 filed.¹³¹ Further, the Ninth Circuit recognizes exceptions to the two dismissal rule that should have
18 precluded the imposition of sanctions as the Sanctioned Parties had a reasonable argument as to why
19 they could file the third lawsuit.¹³² Mr. Ramey believed the dismissal based on venue of the first case
20 was a persuasive explanation for refiling the case.¹³³ Additionally, an entirely new product was accused
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25 ¹²⁷ Ex. B at Case closed column for cases 1-8; 10-17; 19-23; 25-38; 40; and, 42-56

26 ¹²⁸ *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1131 (9th Cir. 2002).

27 ¹²⁹ Doc. No. 42 at 24.

28 ¹³⁰ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

¹³¹ *Milkcrate Athletics, Inc.*, 619 F. Supp. 3d at 1025.

¹³² *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

¹³³ Ex. A, Hearing Transcript at 42:15-43:21; Doc. No. 24-2 at ¶¶14-18.

1 of infringement and therefore the facts and claims are not the same.¹³⁴ The law is clear that filing even
2 the same lawsuit three time is not automatically barred.¹³⁵ The Sanctioned Parties further object to the
3 Magistrate's Order providing that its Inherent Power is a catch all sanction.¹³⁶ It was error for the
4 Magistrate's Order to find that bad faith was shown through not investigating Rule 41.¹³⁷

5 **K. Eleventh Objection**

6 The Sanctioned Parties object to the Magistrate's Order's finding that any future cases by clients
7 of the Ramey Firm filed in California would be in violation of the rules.¹³⁸ The Magistrate's Order, in
8 error, finds that deterrence is required because Mr. Ramey makes case-related decisions. Further, the
9 Magistrate's Order mistakenly claims that Mr. Ramey declined the Court's invitation to take the
10 California bar exam whereas the actual testimony was that Mr. Ramey had in fact considered taking the
11 exam.¹³⁹ The Magistrate's Oder mistakenly finds that a theoretical plan, actions not actually taken, can
12 support the issued sanctions, as there is no finding of any specific violation in any future case.¹⁴⁰ This
13 is a penultimate due process violation, a sanction based on conduct that has not occurred. The Sanctioned
14 Parties request that these objections are affirmed and the Magistrate's Order vacated.
15

16 **L. Twelfth Objection**

17 The Sanctioned Parties object to the sanctions issued as not being proper.¹⁴¹ Sanctions imposed
18 should be limited to what is "sufficient to deter repetition of such conduct or comparable conduct by
19
20
21
22

23 ¹³⁴ Doc. No. 24-2 at ¶¶14-15.

24 ¹³⁵ See, e.g., *Rose Ct., LLC*, 119 F.4th at 686; *Milkcrate Athletics, Inc.*, 619 F. Supp. 3d at 1025; Doc.
25 No. 24-2 at ¶¶5-15.

26 ¹³⁶ Doc. No. 42 at 25-27.

27 ¹³⁷ Ex. A at 45:6-17; Doc. No. 28-2 at ¶¶17, 27-28.

28 ¹³⁸ Doc. No. 42 at 33-37.

¹³⁹ Ex. A at 62:16-20.

¹⁴⁰ Doc. No. 42 at 36-37.

¹⁴¹ Doc. No. 42 at 37-44.

others similarly situated.”¹⁴² If a violation is found and a sanction deemed appropriate, a more appropriate sanction would be admonishment of the conduct as it has already stopped and was not done to circumvent any rule. The evidence of record is that the procedure used by the Ramey Firm was believed to be in compliance but that immediately after the August 22, 2024, hearing, the process was changed.¹⁴³ As such, there is little chance the conduct repeats. It is error for the Magistrate’s Order to require the Sanctioned Parties self-report the sanctions imposed on them.¹⁴⁴ It is further error for the Magistrate’s Order to require the Sanctioned Parties further self-report.¹⁴⁵ It is further error for the Magistrate’s Order to require Mr. Ramey and Mr. Kubiak “to each complete at least two hours of in-person, California bar-approved CLE classes on Legal Ethics and/or Professional Conduct, and at least an additional two hours of in-person, California bar-approved CLE on Law Practice Management.”¹⁴⁶ These sanctions are severe and unwarranted, potentially career ending, and unreasonable as to the length of 5 years. The Sanctioned Parties have already discontinued the practice and it is not likely to be repeated.¹⁴⁷ A stay for any self-reporting, and all other sanctions, should be afforded the Sanctioned Parties pending any appeal as once reported the sanctions cannot be undone.¹⁴⁸ The harm will be immediate and severe.

II. CONCLUSION

Koji IP, LLC, William P. Ramey, III, Susan S.Q. Kalra, and Jeffrey E. Kubiak respectfully request the District Court grant these objections to the Magistrate’s Order and set it aside in its entirety

¹⁴² Fed.R.Civ.P. 11(b)(2)(A).

¹⁴³ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

¹⁴⁴ Doc. No. 42 at 38.

¹⁴⁵ Doc. No. 42 at 38.

¹⁴⁶ Doc. No. 42 at 43.

¹⁴⁷ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

¹⁴⁸ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *1-2 (D. Idaho Jan. 7, 2015) citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); see also *Nken v. Holder*, 556 U.S. 418, 433 (2009).

Respectfully submitted,

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*Attorneys for Plaintiffs
Koji IP, LLC, William P. Ramey, III,
Susan Kalra and Jeffrey E. Kubiak*

CERTIFICATE OF CONFERENCE

In an abundance of caution, I conferred with counsel for Defendant on March 31, 2025 and again on April 7, 2025, that we would be filing these objections and requesting to exceed the page limit to 22 pages. Defendant took no position.

By: /s/ William P. Ramey, III
William P. Ramey, III

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2025, a true and correct copy of the foregoing document was served electronically, via ECF, on all counsel of record who are deemed to have consented to such service under the Court's local rules.

By: /s/ Susan Kalra
Susan Kalra

MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KOJI IP, LLC,
Plaintiff,
v.
RENESAS ELECTRONICS AMERICA,
INC.,
Defendant.

Case No.: 3:24-cv-03089-PHK

**DECLARATION OF WILLIAM P.
RAMEY, III**

I, William Ramey, declare as follows:

1. My name is William P. Ramey, III. I am over the age of 21. I have personal knowledge of the facts contained herein, which are true and correct. If called as a witness, I could competently testify to these statements.

2. I am licensed to practice law in the state of Texas and am an attorney with the law firm of Ramey LLP and I am admitted pro hac vice in this case. I represent the Plaintiff in the above-captioned lawsuit.

3. Exhibit A is a true and correct copy of the hearing transcript from the September 24, 2024 hearing on the Magistrate Court's Order to Show Cause.

1 4. Exhibit B is a chart listing the 56 cases as identified by the Magistrate Court in its Order
2 Regrading OSC and Imposing Sanctions on Ramey Firm Lawyers at pages 4 through 8.¹ Each of case
3 1-7, 9-21, 43, 50, and 53-56 were transferred to California. Each of cases 8, 22-42, 44-49, 51 and 52
4 were filed in California for reasons of venue. None of the clients in any of the 56 cases were organized
5 in California or domiciled in California.
6

7 5. Case 6 from Exhibit B was transferred to California from New York. A Case Management
8 Conference document was jointly filed by Plaintiff and Defendant and then the court dismissed the
9 complaint based on a motion to dismiss filed while the case was in New York.

10 6. Case 7 from Exhibit B was transferred from Texas to California. My firm never appeared in the
11 case and did not even respond to a motion to stay filed by Google.
12

13 7. Case 50 from exhibit B was transferred from Texas to California. However, the case was settled
14 by a third party at the time of the transfer. Defendant filed two stipulations that included my signature,
15 a stipulation to extend the time for the defendant to answer and a stipulation to dismiss the case.
16

17 8. Exhibit C is a true and correct copy of a printout on April 5, 2025, indicating my eligibility to
18 practice law in the State of Texas.

19 9. Exhibit D is a true and correct copy of a printout on April 5, 2025, indicating Mr. Kubiak's
20 eligibility to practice law in the State of Texas.

21 10. Exhibit E is a true and correct copy of an e-mail message I received from Gene Quinn on April
22 4, 2025, wherein he is censoring me at least in part for the Magistrate's Order.
23

24 11. Exhibit F is a case report reflecting the cases upon which Jeffrey E. Kubiak appeared.

25 12. Exhibit G is a true and correct copy of Doc. No. 88 from 3:20-cv-000483-VC.

26 13. Exhibit H is a true and correct copy of Doc. No. 91 from 3:20-cv-000483-VC.
27

28

¹ Doc. No. 42 at 4-8.

1 14. Exhibit I is a true and correct copy of Doc. No. 63 from 4:23-cv-01852-JST.

2 15. Exhibit J is a true and correct copy of Doc. No. 16 from 5:21-cv-07812-EJD.

3 16. Exhibit K is a true and correct copy of Doc. No. 20 from 5:21-cv-07812-EJD.

4 17. Exhibit L is a true and correct copy of a granted pro hac vice for me in 3-17-cv-02177-WHA.

5 18. Exhibit B to this response is a true and accurate listing of all 56 cases identified by the
6 Magistrate's Order from the Northern District of California ("NDCA"), providing columns for (1) Case
7 Number 1 – 56; (2) Case name; (3) Case Filing No.; (4) Filing Date; (5) Counsel for Plaintiff and
8 Defendant; (6) whether a lawyer not licensed in CA was on pleadings; (7) whether the identified "*pro*
9 *hac vice*" or similar modifier was used; (8) whether a "*pro hac vice*" application was filed in the case
10 for a Ramey Firm lawyer; (9) Whether case was transferred from another District to NDCA and the
11 date; and, (10) the date the case was closed.
12
13

14 19. Cases 8, 22-42, 44-49, 51 and 52 were all filed in California with a licensed California lawyer
15 as lead counsel. Non-licensed California lawyers were also on one or more pleadings using the identifier
16 "*pro hac vice anticipated*" or something very similar. The practice was thought to conform to the local
17 rules. However, after the August 22, 2024, hearing in this matter, the practice was stopped and is not
18 going to be repeated. The practice was not thought to be the unauthorized practice of law because the
19 use of the qualifying language is a clear statement that the lawyer is not licensed in California. If the
20 cases progressed, a motion *pro hac vice* was filed, as in cases 22-24, 39, 49, 51, and 52. In all cases that
21 originated in California, a California lawyer was in charge as lead counsel. Any unlicensed California
22 lawyers were providing case support regarding the highly specialized nature of patent litigation and not
23 on issues of California state law. None of the clients represented in any of the 56 cases are organized in
24 California or otherwise domiciled therein. The cases were filed in California because venue in patent
25 infringement cases is restrictive and venue was proper in California.
26
27
28

1 20. Cases 1-7, 9-21, 43, 50, and 53-56 were all transferred to California from another court. Non-
2 licensed California lawyers were also on one or more pleadings using the identifier “*pro hac vice*
3 *anticipated*” or something very similar. The practice was thought to conform to the local rules.
4 However, after the August 22, 2024, hearing, the practice was stopped and is not going to be repeated.
5 The practice was not thought to be the unauthorized practice of law because the use of the qualifying
6 language is a clear statement that the lawyer is not licensed in California. If the cases progressed, a
7 motion *pro hac vice* was filed, as in cases 2, 9, 10, 53-56.
8

9 21. Transferred case numbers 6, 7, and 50 do not provide for a lead California lawyer. In case 6, a
10 Case Management Conference document was filed by Defendant that included Mr. Ramey’s signature
11 block and then the case was dismissed. Case 6 lasted about 5 months in this District and there was no
12 activity beyond the court required CMC. In Case 7, the case was transferred from the Western District
13 of Texas, but counsel for Plaintiff did not appear in the case or file any document, not even an opposition
14 to the motion to stay. For case 50, no document was filed by Plaintiff and thus no appearance was made.
15 Defendant’s counsel filed two stipulations with Mr. Ramey’s signature block, one agreeing to an
16 extension to answer and one agreeing to a dismissal due to settlement. Case 50 lasted about one month
17 in this District and in fact was in the process of being settled by a third party during the transfer process.
18 Cases 54-56 were consolidated with John Thomas as lead counsel and Mr. Ramey did in fact file a *pro*
19 *hac vice* in case 54. As the cases were consolidated, it was not believed that a *pro hac vice* was required
20 in the other two cases. For all other cases, any unlicensed California lawyer was providing case support
21 regarding the highly specialized nature of patent litigation and not on issues of California state law.
22 None of the clients represented are organized in California or otherwise domiciled therein. The cases
23 were transferred to California and not filed there.
24
25
26
27
28

1 I declare under penalty of perjury under the laws of the United States of America that the foregoing

2
3 is true and correct. Executed on April 7, 2025.



4
5 William P. Ramey, III

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 Before The Honorable Peter H. Kang, Magistrate Judge
4
5 KOJI IP, LLC,)
6 Plaintiff,)
7 vs.) No. C 24-03089-PHK
8 RENESAS ELECTRONICS AMERICA,)
9 INC.,)
10 Defendant.)
11 San Francisco, California
12 Thursday, September 19, 2024
13 TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND
14 RECORDING 10:31 - 11:50 = 1 HOUR 19 MINUTES
15 APPEARANCES:
16 For Plaintiff:
17 Ramey, LLP
18 5020 Montrose Boulevard
19 Suite 800
20 Houston, Texas 77006
21 BY: SUSAN S.Q. KALRA, ESQ.
22 WILLIAM P. RAMEY III, ESQ.
23 JEFFREY KUBIAK, ESQ.
24 For Defendant:
25 Maschoff Brennan
450 Sansome Street
Suite 1005
San Francisco, California
94111
BY: JASON A. CROTTY, ESQ.

1 Transcribed by: Echo Reporting, Inc.
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3 Transcriber
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1 Thursday, September 19, 2024

10:31 a.m.

2 P-R-O-C-E-E-D-I-N-G-S

3 --oOo--

4 THE CLERK: Now calling Civil Matter 24-3089, Koji
5 IP versus Renesas Electronics America.

6 Counsel, when speaking, please approach the podiums and
7 state appearances for the record.

8 THE COURT: Why don't we have counsel approach.
9 Since we're -- don't have a court reporter, we're recording
10 this for transcription purposes, you need to speak into the
11 microphones at the -- at the podiums, please. And, guys,
12 just remember, kind of like in a deposition, everyone speak
13 one at a time, again, just for audio transcript purposes.

14 Can I get appearances.

15 MS. KALRA: Good morning, your Honor. Susan
16 Kalra, appearing for the Plaintiff.

17 THE COURT: Yes.

18 MR. CROTTY: Jason Crotty of Maschoff Brennan,
19 appearing for Defendant Renesas Electronics of America.

20 THE COURT: Mr. Crotty, since this is an order to
21 show cause hearing, I -- I mean, unless things spill over,
22 I'm probably not going to allow you to have much to say
23 because it's not really your motion anymore. That's already
24 submitted.

25 MR. CROTTY: Understood. Thank you.

1 THE COURT: Ms. Kalra, who's here with you today?

2 MS. KALRA: Mr. William Ramey.

3 MR. RAMEY: Good morning, your Honor.

4 THE COURT: Good morning.

5 MS. KALRA: And Mr. Jeffrey Kubiak.

6 MR. KUBIAK: Good morning, your Honor.

7 THE COURT: Good morning.

8 All right. Ms. Kalra, are you going to be speaking on
9 behalf of all three of the Ramey attorney lawyers, Ramey
10 Firm lawyers, or who's going to do most of the talking? You
11 all three could talk of course.

12 MS. KALRA: I will not. Mr. Ramey will handle
13 most of it.

14 THE COURT: Okay. Let's take care -- since -- Mr.
15 Ramey, since you actually aren't counsel of record in the
16 case but I see you're going to be making representations of
17 fact to the Court, I'm going to ask that the court reporter
18 -- sorry -- the Deputy to swear both you and Mr. Kubiak just
19 so we cover all our bases there. So, if you both could
20 please stand.

21 THE CLERK: Raise your right hand. Do you
22 solemnly swear or affirm that the testimony you're about to
23 give before this Court shall be the truth, the whole truth,
24 and nothing but the truth, so help you God or so you affirm?

25 MR. RAMEY: I do.

1 MR. KUBIAK: I do.

2 THE CLERK: Thank you. You may be seated.

3 THE COURT: And since Mr. Crotty is probably not
4 going to jumping up to speak, Mr. Kubiak, if you want to,
5 you could use the other microphone on the other podium if
6 you want to speak.

7 MR. KUBIAK: Thank you, your Honor.

8 THE COURT: Okay. All right. So, Mr. Ramey, I
9 guess you're going to be doing most of the talking?

10 MR. RAMEY: Yes, your Honor.

11 THE COURT: All right.

12 MR. RAMEY: Yes, your Honor. So, we received your
13 show cause order. Ms. Kalra reported to me after the August
14 22nd hearing that she had with you that you brought up some
15 issues about our use of pro hac vice anticipated on the
16 signature lines on pleadings.

17 Immediately upon receiving that feedback from Ms.
18 Kalra, we discontinued that practice. It was never our
19 intention, your Honor, to indicate that either myself or Mr.
20 Kubiak was a licensed California attorney. As I said in the
21 briefing to the Court, we did that main -- for -- for two
22 reasons. We did that first because one of our clients asked
23 us as cases were resolving more quickly, to discount some of
24 that expense up front, and we recognized that was a mistake
25 when to Court pointed it out. We have discontinued that.

1 And, secondly, as we put in the briefing, there was
2 some personal issues going on with Ms. Kalra, and we left
3 that on there for notice purposes.

4 I, as the managing partner of the firm, am aware of the
5 issues, but I did not read her sealed declaration because
6 that was between the Court and Ms. Kalra, not me. So, I
7 can't comment on that part of it.

8 THE COURT: Okay. All right. So, first of all,
9 just to confirm, Mr. Ramey and Mr. Kubiak, I just want to
10 make 100 percent sure you're -- neither of you are members
11 of the California Bar?

12 MR. RAMEY: I am not, your Honor, Mr. Ramey.

13 MR. KUBIAK: I am not, your Honor.

14 THE COURT: Okay. And none of you, therefore, are
15 members of the Bar of this Court?

16 MR. KUBIAK: That is correct.

17 MR. RAMEY: Correct, your Honor.

18 THE COURT: Okay. And, as you point out, I mean,
19 I think you say in the OSC response and I think in some of
20 the declarations that the way you've handled pro hac vice in
21 this court was a mistake essentially and that you've tried
22 to rectify that, right? Summarizing too generally or is
23 that basically it?

24 MR. RAMEY: No, your Honor. I think that's
25 correct. We -- we weren't trying to misrepresent anything,

1 but once the Court pointed that out, we've changed
2 practices.

3 THE COURT: Okay. So, just so, again, I'm clear,
4 you don't -- I mean, the OSC order itself refers to the
5 Civil Local Rules on pro hac vice admission, and, this,
6 again, is for unauthorized practice of law. Given the
7 response, you don't really engage with those legal -- the
8 legal standards of those rules. As I read -- read the
9 response and the declarations, the response is that you're
10 changing your internal procedures to avoid those issues
11 going forward. Is that correct?

12 MR. RAMEY: Correct, your Honor. We don't want to
13 give the impression that we're trying to indicate we're
14 licensed in California.

15 THE COURT: Okay. So, is there really -- I mean,
16 you agree there's been a failure to comply with the Local
17 Rules on pro hac vice admission?

18 MR. RAMEY: Your Honor, we -- we always thought we
19 were practicing under the -- the license of Ms. Kalra. So,
20 we never thought that we were in violation. We never
21 intended that to be the case. We modified the practice when
22 the Court pointed it out. So, if what was done in the past
23 is deemed to have been a violation, then, yes, your Honor,
24 we were in violation. But we -- we never intended that to
25 be -- we always had pro hac vice anticipated in cases that

1 did carry on longer.

2 THE COURT: Right.

3 MR. RAMEY: We did, in fact, do the pro hac vice
4 and have people admitted. So, that was our mistake for not
5 doing it right at the start, your Honor.

6 THE COURT: Right. Okay. So, and I think in the
7 order to show cause you've got a long list of cases where
8 you, Mr. Ramey, have either appeared as counsel or your
9 name's on the pleadings going back to 2017. And I think for
10 Mr. Kubiak, it goes back at least a couple -- one or two
11 years. And, of course, the list is longer for Mr. Ramey.

12 I mean, you've been aware of the Court's Local Rules
13 since 2017, right?

14 MR. RAMEY: Yeah. I was -- yes, your Honor, we
15 were aware of the Local Rules. We -- we -- we just didn't
16 understand that was a violation, what we were doing.

17 THE COURT: Okay. Well, Local Rule 11-3 says --
18 and I think we say this in the OSC -- that you're supposed
19 to file your PH -- pro hac vice applications at the time of
20 the filing of the complaint, right?

21 MR. RAMEY: Yes, your Honor.

22 THE COURT: Okay. And since we've put in the
23 order to show cause order it's at least 48 cases where you
24 never filed a pro hac vice application and certainly not at
25 the time of the filing of the complaints in those cases,

1 including the -- the cases here in front of me, right?

2 MR. RAMEY: Yes, your Honor. I think that -- yes,
3 your Honor.

4 THE COURT: Okay. And for Mr. Kubiak, I think we
5 talked about this, 16 plus the -- this case and what I'm
6 calling the second case. So, that's a total of 18 cases, is
7 that right?

8 MR. KUBIAK: Yes, sir. I think that's correct.

9 THE COURT: Okay. And, so, again, I just want to
10 be clear. You're not -- technically, those are violations
11 of the Local Rules, right?

12 MR. RAMEY: Yes, your Honor. We -- we
13 misapprehended the way we were practicing. We -- we
14 modified that practice.

15 THE COURT: All right. And, again, the Local
16 Rules require filing the application at the time of the
17 complaint and also filing -- submitting the fee for the pro
18 hac vice application at the time of the complaint, right?

19 MS. KALRA: If I may, your Honor. 11-3 also says
20 it can be filed at the time of the complaint or at the time
21 of first appearance, the pro hac vice application.

22 THE COURT: Okay. So, if Mr. Ramey and Mr. Kubiak
23 were not appearing in the case yet but they -- but they
24 anticipated that they might, then -- and it doesn't -- the
25 Rule doesn't say at the earlier. It just says that that's

1 when you have to file is at the time you're filing at the
2 complaint or at your first appearance.

3 THE COURT: So, it's your -- well, their names
4 appear on the pleadings, on the complaints. Isn't that an
5 appearance?

6 MS. KALRA: As pro hac vice anticipated?

7 THE COURT: Well, it's an appearance to the Court.
8 Once their names are on the pleadings, they've appeared,
9 haven't they?

10 MS. KALRA: They haven't been admitted yet, and --

11 THE COURT: Well, that's the whole point.

12 MS. KALRA: Right. So --

13 THE COURT: They put their names on a pleading,
14 like a complaint. They've appeared in front of the Court,
15 and the Rule says you're supposed to file your pro hac vice
16 application at that time.

17 (Pause.)

18 THE COURT: Right?

19 MR. RAMEY: Your Honor, we were misapplying the
20 rule until we -- until we appeared in person because we
21 always originally said we were always using Ms. Kalra to do
22 the appearances until we got further in the case.

23 THE COURT: Okay. I'll get to that in a second,
24 but I just want to close the loop on this. You're not
25 interpreting first appearance as first appearance like

1 standing up in court, are you?

2 MS. KALRA: Not necessarily. I mean, there's --
3 there's a number of ways that --

4 THE COURT: Right. You appear in front of the
5 Court when you file a pleading with your name on it as
6 counsel for a party.

7 MS. KALRA: That's a fair interpretation.

8 THE COURT: Okay. So, again, just so I'm clear,
9 not really a -- I just want to make sure there's not really
10 a dispute here that in the 40 plus cases for Mr. Ramey and
11 the 16 or 18 cases for Mr. Kubiak, there was a violation of
12 the Local Rule in terms of the timing of the filing of the
13 pro hac vice applications, right?

14 MR. RAMEY: Yes, your Honor.

15 THE COURT: Okay. And it was also a violation of
16 the Local Rule in all those cases, including the one here,
17 by not paying the fee at the time those applications would
18 have been due, right, or fees?

19 MR. RAMEY: Because no application was filed, no
20 fee was paid, correct, your Honor.

21 THE COURT: And, Mr. Kubiak (sic), with regard to
22 this case, did you advise either Mr. Ramey or Mr. Kubiak
23 about what the Local Rules require and the timing issues?

24 MS. KALRA: On this specific case?

25 THE COURT: Yes.

1 MS. KALRA: I advised them of your Honor's
2 position after the last hearing. However --

3 THE COURT: Yeah. I'm -- I'm talking about at the
4 time the case started here.

5 MS. KALRA: Correct. I've worked with Mr. Ramey
6 and Mr. Kubiak on many many many cases, and the rule has
7 been the same as far as I know for many many years now, and
8 I know I've had a discussion several times with everybody at
9 the firm about that, but I don't recall having that
10 discussion in this particular case.

11 THE COURT: Okay. All right. All right. I
12 should have said this up -- because I'm going to -- I think
13 we're going to use these terms just for the record. When
14 they're called something like -- there are three cases
15 involving Koji and Renesas. The first case is the Colorado
16 case, which is Docket Number 21-1674. What I might refer to
17 and the parties might refer to as the second case is the
18 case -- second case filed here in the Northern District of
19 California, Docket 23-5752. And the third case is the
20 current case here that raised all these issues, which is
21 Docket Number 24-3089. So, you all understand that's what I
22 mean. The first case is the Colorado case. Second case was
23 the second in line but the first Northern District case, and
24 then the third case is this current case.

25 MR. RAMEY: Yes, your Honor.

1 THE COURT: So, we have the same terminology in
2 mind. Okay.

3 Okay. I mean, I understand that that was your
4 practice, and I appreciate you being candid about
5 misapplying the Rule. Was there any attempt at the Ramey
6 Firm to do legal research on -- to -- to justify the
7 practice that you had had in the past about not filing pro
8 hac vice applications or was it just a procedural managerial
9 decision, as you said?

10 MR. RAMEY: Your Honor, if you go back to the --
11 towards the earlier cases, we always filed pro hac vice. It
12 was -- it was in consultation -- discussions with the client
13 that we -- we slipped into doing it the other way because
14 some of the -- he was having a lot of cases resolve real
15 quickly at the low end expense. So, that's -- we
16 acknowledge that we let that Rule slip, and we acknowledge
17 that, your Honor.

18 THE COURT: Okay. So, and you say that this was
19 -- this practice of not filing the pro hac vices was done at
20 the request of -- I'm going to mispronounce his name again
21 -- Mr. Go -- help me out.

22 MR. RAMEY: I pronounce -- mispronounce it every
23 time too, your Honor. It's Doctor Gorrichategui's.

24 THE COURT: Gorrichategui. Okay. So, Mr.
25 Gorrichategui, I think you said that it was a request he

1 made near early '22, but the list of cases and the order to
2 show cause found go back to certainly before '22 a number of
3 them. The earliest one is 2017, where on pro hac vices were
4 filed. And, like I said, there's a number of them leading
5 up to 2022.

6 I guess, first, generally, a lot of the cases -- most
7 of the cases don't involve Koji as a Plaintiff. So, does
8 Mr. Gorrichategui, is he the -- the client in charge of all
9 the cases we've listed here in the order to show cause?

10 MR. RAMEY: No, your Honor. The -- some of the
11 ones for 2017 were actually transferred from Texas into
12 California. So, we were on the pleadings already. We never
13 made an appearance in that matter because we weren't trying
14 to make an appearance in those -- in that case once it was
15 transferred. I believe we're talking about the Traxcell v.
16 Apple cases.

17 THE COURT: No. The earliest 2017 case is Global
18 Equity v. Alibaba Group.

19 MR. RAMEY: And that was another -- another --
20 another instance of a case transferred that was in
21 California. That -- that was Hicks -- John Thomas with
22 Hicks Thomas was the -- the lead on it. So, that was a --
23 that one I didn't look at in particular separate from what I
24 did in the pleading, but that was so long ago. That one was
25 a mistake of not having it on there then. That's -- that

1 one I -- just a mistake. It was the incorrect practice.

2 THE COURT: All right. So, I guess the -- the
3 question is, you know, obviously Koji is a client of yours
4 and Mr. Gor --

5 MR. RAMEY: Doctor Gorrichategui, your Honor.

6 THE COURT: -- Gorrichategui is in charge of Koji
7 because it owns or controls -- is owned or controlled by
8 DynaIP, I take it?

9 MR. RAMEY: Your Honor, Koji IP, LLC is -- is the
10 -- owns the IP, and then it's managed by DynaIP Deals, which
11 is managed by Doctor Gorrichategui.

12 THE COURT: Got it. Okay. So, are the -- I mean,
13 even the ones that -- that are post-2022 of the cases listed
14 on page five of the order to show cause, was that request
15 from Doctor Gorrichategui, did that apply to all these
16 cases? I mean, he wasn't the client for all these cases,
17 was he?

18 MR. RAMEY: He is the managing member for -- for
19 all those cases.

20 THE COURT: He is the managing member?

21 MR. RAMEY: For different LLC entities.

22 THE COURT: Right, right.

23 MR. RAMEY: Okay. Pardon me.

24 THE COURT: Through the DynaIP management of those
25 entities?

1 MR. RAMEY: Yes, your Honor.

2 THE COURT: Okay. So, for example, VDPP, that's a
3 DynaIP --

4 MR. RAMEY: Yes.

5 THE COURT: -- entity?

6 MR. RAMEY: Yes, your Honor.

7 THE COURT: All right. And then let's go back to
8 the earliest from 2022. Here we go. Valjakka v. Netflix?
9 That's a 2022 -- that's a March 2022 case.

10 MS. KALRA: I believe Mr. Ramey's admitted in that
11 case.

12 MR. RAMEY: Yes, your Honor. I'm admitted in that
13 one.

14 THE COURT: Okay. What about Traxcell Techs v.
15 Google?

16 MR. RAMEY: That was the -- Traxcell v. Google was
17 transferred from Texas to California. I never entered an
18 appearance. The case was dismissed shortly thereafter by
19 Judge Corley.

20 THE COURT: Okay. E-submissions Software?

21 MR. RAMEY: Doctor Gorrichategui, your Honor.

22 THE COURT: Okay. Escape XIP?

23 MR. RAMEY: Doctor Gorrichategui, your Honor.

24 THE COURT: So, everything from '22 -- '22 onward,
25 all these entities are Doctor Gorrichategui's?

1 MR. RAMEY: He's the manager of the -- the LLC's,
2 your Honor.

3 THE COURT: Okay. But what about pre 2022? I
4 mean, if he made the request in 2022, that doesn't explain
5 why there were no pro hac vices filed in a number of cases
6 before 2022.

7 MR. RAMEY: No, your Honor. That doesn't -- the
8 ones that were -- I know the Valjakka v. Netflix, I was
9 admitted in that one. That case I've now withdrawn as
10 counsel from -- your Honor, I'm sorry. Now I'm not thinking
11 of the Court's name. I apologize, your Honor.

12 THE COURT: That's okay.

13 MS. KALRA: Judge Tigar.

14 MR. RAMEY: Judge Tigar, yes, your Honor.

15 THE COURT: Okay. Tigar it's pronounced.
16 CyboEnergy v. Movin Electric Power Tech?

17 MR. RAMEY: Yes, your Honor. That one -- that's a
18 Doctor Gorrichategui case.

19 THE COURT: Riggs Tech Holdings v. Vagaro?

20 MR. RAMEY: Yes, your Honor.

21 THE COURT: Okay. But if you made the request in
22 2022, these are 2021 cases. So, I'm just -- again, I
23 understand that he made the request that you not file pro
24 hac vice's in 2022 according to the declarations, but if
25 these were DynaIP cases before 2022, what explains the

1 failures in those cases?

2 MR. RAMEY: There was error in the process that we
3 had at the firm, your Honor.

4 THE COURT: Okay. PacSec3 v. Juniper Networks?

5 MR. RAMEY: That was, again, a case that was
6 transferred from the Western District when it was settled.
7 It was settled as it was being transferred. So, we didn't
8 -- we were intending to make an appearance in that case.

9 THE COURT: Okay. Apple v. Traxcell Techs?

10 MR. RAMEY: Same -- same situation, your Honor.
11 It was transferred from Texas. We were intending to enter
12 an appearance as we were in settlement.

13 THE COURT: I may be mispronouncing it, DATRAC or
14 DATRAC v. PrognocIS?

15 MR. RAMEY: Prognosis? Your Honor, that was
16 another case that we were in settlement talks at the time.

17 THE COURT: NetSoc v. LinkedIn?

18 MR. RAMEY: That was another -- pardon me, your
19 Honor. NetSoc v. LinkedIn, that was error on the part of
20 the firm. That case was filed.

21 THE COURT: Okay. NetSoc v. Quora?

22 MR. RAMEY: Same thing, your Honor. The -- the
23 NetSocs cases. They are not Doctor Gorrichategui cases.

24 THE COURT: So, those were -- those were errors.
25 Global Equity Management v. Alibaba?

1 MR. RAMEY: That case was -- was filed in -- in
2 the Eastern District of Texas, and it was caught up and
3 stayed when it was transferred out to California. So, we
4 never entered an appearance. The PTAB disposed of that
5 patent, and the case was dismissed.

6 THE COURT: Okay. And there's another Global
7 Equity Management v. eBay case?

8 MR. RAMEY: That -- that's the same JIMSA
9 (phonetic).

10 THE COURT: Okay. And I think we already talked
11 about Global Equity Management v. Alibaba?

12 MR. RAMEY: Yes, your Honor. Same -- same facts
13 on that one.

14 THE COURT: And I'm 99 percent sure that the cases
15 we listed in the order to show cause for Mr. Kubiak overlap
16 with the cases for Mr. Ramey, is that right? Are there any
17 others that you're aware of where Mr. Kubiak's on the
18 pleadings but -- or appeared but Mr. Ramey didn't?

19 MR. KUBIAK: No, your Honor. As far as I know,
20 there's not.

21 THE COURT: Okay. And I know Mr. Ramey's doing
22 most of the talking, but I want -- again, anything you want
23 to add on your own behalf with regard to failures to file
24 pro hac vices in those cases?

25 MR. KUBIAK: I'm not as familiar with the cases as

1 Mr. Ramey is. He knows them by -- by name and docket. As
2 the -- the 18 cases that were listed for me, four of those
3 were -- were transferred from Western District. Nine of
4 them I was listed on the jury charge as an attorney, and it
5 was -- that was in error as well. Four of them is my
6 recollection I'm actually listed on the complaint. And,
7 so --

8 THE COURT: Yes, but was it just error?

9 MR. KUBIAK: Well, it's -- it's an error as in not
10 understanding the Rule I suppose.

11 THE COURT: Okay. All right. And we -- I don't
12 know if we gave the full list, but I think the order to show
13 cause indicates that Mr. Ramey has appeared and/or currently
14 working on at least 37 cases in the Central District of
15 California. Is that -- any dispute about that number? Is
16 it?

17 MR. RAMEY: No, your Honor. That's -- I think
18 most of those are now closed, but there may be a couple of
19 them that we're handling. But when we're filing new
20 documents for each other, we removed that from the
21 pleadings.

22 THE COURT: Okay. And then, Mr. Kubiak, we
23 counted about 10 cases in the Central District. Is that
24 right? I'm assuming that you've got the numbers, right?

25 MR. KUBIAK: I would have to defer to Mr. Ramey on

1 that.

2 THE COURT: Okay. And, again, I think we -- what
3 we saw was, similarly, there was a failure to file pro hac
4 vice applications in the Central District in most -- most of
5 those cases. Again, tell me if I'm wrong in our review of
6 the records there.

7 MR. RAMEY: So, the -- a few of the -- one of the
8 cases was transferred out from Texas. And, so, it was
9 closed shortly thereafter. But, your Honor, generally, that
10 is closed.

11 THE COURT: Okay. What I saw from at least one
12 document is actually the clerk's office in that court sent
13 you -- sends notices out when pro hac vices are overdue.
14 So, I think you received at least a number of those, right?

15 MR. RAMEY: Yes, your Honor.

16 THE COURT: Okay. You know, I -- I've got a
17 factual question. I know Ms. Kalra works out of your
18 Redwood City office, is that right? She said that at the
19 last hearing.

20 MR. RAMEY: Yes, your Honor.

21 THE COURT: All right. But I saw, and I think
22 it's required under the Local Rules in the Central District,
23 your website says you've got a Los Angeles office. Is that
24 -- is that wrong? Is that right?

25 MR. RAMEY: We have a Los Angeles address, yes,

1 your Honor.

2 THE COURT: Okay. All right. Who works there?

3 MR. RAMEY: Ms. Kalra.

4 THE COURT: Okay. How much? What percentage of
5 your time, Ms. Kalra, do you spend down there?

6 MS. KALRA: As I mentioned during the last
7 appearance and as still continues now, since mid 2023 --

8 THE COURT: Yeah.

9 MS. KALRA: -- my living situation has changed
10 drastically.

11 THE COURT: So, let's -- let's talk about the --

12 MS. KALRA: Okay.

13 THE COURT: -- historical period before your
14 personal situation distracted you from being able to work.

15 MS. KALRA: So, I pretty much split my time
16 between Northern California and Southern California.

17 THE COURT: Okay.

18 MS. KALRA: Until fairly recently.

19 THE COURT: Okay. So, about 50/50 here and --

20 MS. KALRA: Yes.

21 THE COURT: -- and in the Central District? Okay.

22 Okay. And then in the -- I think you -- and maybe this is

23 reference to -- I think it's in reference to Ms. Kalra's

24 personal situation, which I won't go into in open court. In

25 the OSC response, you talk about you added your names to the

1 pleadings in this case and I think in other cases to provide
2 notice? I think you mentioned the word -- You talked about
3 providing notice, and I guess I just was -- notice for what
4 purpose and to whom?

5 MR. RAMEY: Yes, your Honor. Maybe that was an
6 inarticulate way to do it. Notice so that we get notice
7 back when filings are received. We were just making sure
8 that nothing was missed.

9 THE COURT: So, that you would receive notice of
10 filings, not that people would get notice from you, right?

11 MR. RAMEY: That's correct.

12 THE COURT: I see. Okay. And are you both --
13 you, Mr. Kubiak, Mr. Ramey, are you ECF filers? Do you have
14 ECF accounts with the court? Is that how you get notice?

15 MR. KUBIAK: Yes, your Honor, I do.

16 MR. RAMEY: No -- well, I don't know if I have
17 one. My paralegal takes care of that, your Honor. I
18 apologize. I do know in the last 18 months we have switched
19 practices. So, now we use a third party service that gives
20 us notices so we can put a tag line on everything that gets
21 filed as we -- as we get the filing papers. It's through
22 Ms. Kalra's login. So, I don't think it comes in to me
23 specifically, but it comes in through Ms. Kalra's ECF.

24 THE COURT: Okay. All right. But when you said
25 in the OSC response that you -- it's for notices so that you

1 get notice of filings from the Court?

2 MR. KUBIAK: Yes, sir.

3 THE COURT: Is that -- I just want to make sure I
4 understand that.

5 MR. KUBIAK: Absolutely.

6 MR. RAMEY: Yes, your Honor.

7 THE COURT: All right. And then in the OSC
8 response, you -- you say -- you said there was no deceptive
9 intent or intent to indicate that you were licensed here in
10 California, which I take -- you said that here today. I
11 guess that raises a question in my mind because you don't
12 really discuss the legal standards for -- under the Local
13 Rules for unauthorized practice of law.

14 Is -- is your mens rea even relevant? Am I supposed to
15 take that into account here?

16 MR. RAMEY: Your Honor, I think the -- to the
17 extent we were advising any of these clients on the scope of
18 a patent claim, whether the accused product fit within the
19 scope of those claims, our USPTO license does, in fact,
20 allow us to -- to give nationally general -- general -- but
21 we can't appear in a courtroom and hold ourselves out as
22 California attorneys, but we are allowed to give advice to
23 clients as to the validity of their patent, whether their
24 patent might be infringed, whether someone else's product
25 falls within the scope of those claims.

1 THE COURT: Well, I mean, I'm -- I think I still
2 am. I was a registered patent attorney. I mean, we all
3 know work in the Patent Office doesn't involve opinions on
4 infringement, right? I mean, Patent Office work is not --
5 Patent Office doesn't decide infringement issues.

6 MR. RAMEY: That's correct, your Honor. We cited
7 a case in the OSC response from the Ninth Circuit that --
8 that provides that we're able to give those opinions, but
9 we're not able to hold ourselves out as California lawyers.

10 THE COURT: I'll take a closer look at that. But
11 that didn't really answer my question. I mean, you make a
12 point of saying you didn't have any deceptive intent here.
13 I just am trying to figure out what the legal standard is
14 here. I -- we can look it up obviously, but is -- I mean,
15 is -- is it a subjective standard? Am I supposed to look at
16 your -- your intent or not here? Is that relevant? And if
17 it is -- and it's like the follow up is if your mens rea is
18 relevant, is it a subjective standard or is it an objective
19 standard?

20 MR. RAMEY: As with most sanctions motions, it
21 would be an objective standard that's applied to like a Rule
22 11 analysis so that whether there was actually -- that the
23 elements fit the unauthorized practice of law.

24 THE COURT: Okay. Do you have any case law that
25 tells us that it's an objective standard for unauthorized

1 practice?

2 MR. RAMEY: I don't, your Honor. I can -- but I
3 can provide that to the Court afterwards. I didn't --

4 THE COURT: Okay.

5 MR. RAMEY: -- bring that.

6 THE COURT: Now, we -- I mean, since we're talking
7 about unauthorized practice of law, the actual acts of
8 practicing law, those are intentional. I mean, you don't
9 kind of accidentally practice law, right?

10 (Pause.)

11 THE COURT: I mean, there is an intent to
12 undertake the actions which constitute the practice of law,
13 right?

14 MR. KUBIAK: Yes, sir.

15 THE COURT: I mean, I don't see any way you can
16 kind of stumble into accidentally practicing law.

17 MR. RAMEY: No, your Honor. I think there's
18 always a gray area when you talk about the USPTO
19 registration, and I think the Supreme Court has wrestled
20 with that about what constitutes the -- you know, whether or
21 not they're able to give opinions as to validity and claim
22 scope, and that's what that courts have said registered
23 patent attorneys are able to do.

24 THE COURT: Claim scope and validity, sure. Maybe
25 claim construction. But infringement? I'm not sure the

1 case law supports that. And, also, you're not taking the
2 position that being members of the patent are -- allow you
3 to appear on pleadings in litigations in California?

4 MR. RAMEY: Not at all, your Honor.

5 THE COURT: No. Okay. All right. Again, for
6 purposes -- in this case particularly, I think you said you
7 were on the pleadings for notice but this is also in order
8 to help out Ms. Kalra's personal situation, right? I don't
9 want to get into detail on that. Is that -- is that right?

10 MR. RAMEY: Yes, your Honor.

11 THE COURT: Okay. So, that was basically covering
12 for her while she's going through this personal --

13 MR. RAMEY: Yes, your Honor.

14 THE COURT: -- these personal issues --

15 MR. RAMEY: Yes, your Honor.

16 THE COURT: -- where she can't work? Okay. So,
17 again, I just -- you put your names on the pleadings
18 purposefully. It wasn't like an accident, right? It was to
19 help her out, right?

20 MR. RAMEY: It was -- they were personally -- they
21 were purposely, pardon me, your Honor, purposely put on the
22 pleadings.

23 THE COURT: Okay. So, the question I have is
24 before Ms. Kalra joined your firm, I think she represented
25 that she was either in a different firm or I know she was

THE COURT: No. Okay. All right. Again, for -- in this case particularly, I think you said you filed the pleadings for notice but this is also in order with respect to Ms. Kalra's personal situation, right? I don't want to get into detail on that. Is that -- is that right?

THE COURT: Okay. So, that was basically covering while she's going through this personal --

THE COURT: -- these personal issues --

THE COURT: -- where she can't work? Okay. So, just -- you put your names on the pleadings fully. It wasn't like an accident, right? It was to put out, right?

THE COURT: Okay. So, the question I have is . Kalra joined your firm, I think she represented was either in a different firm or I know she was

1 your local counsel as like someone who was outside the firm
2 but acted as local counsel for your firm here in cases here.
3 Is that right?

4 | MR. RAMEY: That's correct, your Honor.

5 THE COURT: Okay. So, I mean, because Ms. Kalra's
6 -- I'm trying to be sensitive here. Because Ms. Kalra has
7 her own personal situation here, you have the option of
8 associating in a different local counsel, right, when --
9 instead of putting your names on the pleadings, right?

10 MR. RAMEY: Yes, your Honor. We -- we quite
11 literally we were helping a colleague at the time. So,
12 that's -- that's what we were doing.

13 THE COURT: Yeah.

14 MR. RAMEY: But, of course, we always had the
15 option of finding other counsel.

16 THE COURT: All right. So, in the OSC response,
17 you said that Ms. Kalra was acting as lead attorney on all
18 California matters? So, when did she join the firm?

19 MR. RAMEY: Your Honor, I'm sorry. I -- it blends
20 again because we've worked with Ms. Kalra for a long time.

21 THE COURT: Sure.

22 MR. RAMEY: She would remember I'm certain.

23 MS. KALRA: February 2023.

24 THE COURT: Okay. And, so, when you say in the
25 response that she was acting as lead attorney on all

1 California matters, that even includes matters where she was
2 co-counsel or local counsel before she officially joined the
3 firm?

4 MR. RAMEY: I see your point now. Yes, your
5 Honor. She was the lead counsel on the --

6 THE COURT: Okay.

7 MR. RAMEY: -- matters even when she was with the
8 other firm.

9 THE COURT: Okay. And, again, I think we counted
10 upwards of 56 or more cases in this court where your firm
11 and Mr. Ramey's firm is listed as counsel.

12 So, Ms. Kalra, you were lead attorney in 56 cases?

13 MS. KALRA: Over the course of years.

14 THE COURT: Well, that's -- I'm just -- I mean,
15 probably 40 plus of them were just in the last two years.

16 MS. KALRA: Yes. And, of course, in consultation
17 with Mr. Ramey for most of them and Mr. Kubiak on a few.

18 THE COURT: Okay. And then, Ms. Kalra, in your
19 declaration you say -- this is on paragraph 20 -- it's
20 always been the practice of Ramey, LLP to work under my
21 California Bar admission on cases in California. I'm not
22 aware of any case where I was not listed as the attorney of
23 record.

24 So, I mean, we've mentioned these cases I think, but
25 PacSec v. Juniper Networks, which is Docket Number 21-7812,

1 and NetSoc v. LinkedIn, which is Docket Number 20-483, in
2 both -- at least both those cases, only Mr. Ramey appears on
3 the pleadings.

4 MS. KALRA: I think I was involved in -- I
5 remember one of those cases.

6 THE COURT: But those are both cases in this
7 court. So, I guess the -- I guess I'm trying to reconcile
8 your statement that you were lead counsel on all cases for
9 Ramey in California, but we found at least two where you
10 weren't on the pleadings anywhere. You weren't on the
11 docket.

12 MS. KALRA: Oh, so, I should probably qualify that
13 statement a little. I was lead counsel for the cases in
14 which I either was an employee of Ramey, LLP or hired as
15 local counsel. And, so, if I wasn't hired as local counsel
16 or the cases prior to the time I joined the firm, then my
17 name would not be on those pleadings.

18 THE COURT: Okay. But I -- no California Barred
19 lawyer is on those pleadings? And I -- I know that they --
20 they do predate your joining the firm --

21 MS. KALRA: Yes.

22 THE COURT: -- but I don't know when -- maybe
23 that's -- when did you start working as co-counsel/local
24 counsel with the firm?

25 MS. KALRA: I don't recall a specific date, but I

1 believe it was maybe 2020.

2 THE COURT: Okay.

3 MR. RAMEY: Your Honor, just to be very clear
4 about those two --

5 MS. KALRA: Yes.

6 MR. RAMEY: -- cases that you said that I appeared
7 without local counsel, those cases were transferred into
8 California and dismissed shortly thereafter. We -- we never
9 -- that -- a court transferred those cases to California. I
10 never officially entered an appearance in that court at all.
11 So, those would be two examples of one where I would enter
12 an appearance simply because it was sent there --

13 THE COURT: Yeah.

14 MR. RAMEY: -- but we would try to -- we got rid
15 of the cases shortly thereafter.

16 THE COURT: Okay. So, let -- let's talk about the
17 other issue which you've raised and it's in your OSC
18 response which you say that, Mr. Kubiak, Mr. Ramey, you have
19 been representing clients in California "under the
20 California Bar license of Ms. Kalra"? I don't understand
21 what "under the Bar license of Ms. Kalra" means.

22 MR. RAMEY: She's the -- the attorney -- the
23 attorney that's advising the California clients, and we're
24 simply providing services to the clients under the -- under
25 the guidance of Ms. Kalra. It's her Bar license that --

1 she's the one -- the lead attorney. She's the -- the
2 contact for that client.

3 THE COURT: Okay. So, help me out here. Under
4 the -- I mean, you don't cite any law. I mean, do the
5 California Ethics Rules allow out-of-state lawyers to
6 practice and advise clients about California litigation
7 under the Bar license of -- of a California Barred attorney
8 without getting admitted pro hac?

9 MR. RAMEY: We were providing legal services to
10 Ms. Kalra at her request. She's the one that's working with
11 the client. So, that's -- that's how we did it, your Honor.
12 We weren't advising directly the clients without Ms. Kalra
13 being the one that was in charge of the overall
14 representation of the client in -- for California purposes.

15 Again, our representation was limited more towards what
16 the -- the claim scope was, the validity of the patent, and
17 what products might infringe, because of our USPTO Bar
18 registration.

19 THE COURT: Well, at the last hearing, I think Ms.
20 Kalra represented that you, Mr. Ramey, have most of the
21 client contact with Doctor Gorrichategui, that she -- that,
22 for example, the work on the claims charts, deciding whether
23 or not to file cases. That's your discussions with him?

24 MR. RAMEY: That's correct, your Honor.

25 THE COURT: Okay. Well, then how are your -- how

1 is that operating under Ms. Kalra's Bar license?

2 MR. RAMEY: She is the person that -- that assumes
3 responsibility for the representation of the client. We
4 provide services for the client under Ms. Kalra's
5 representation, and that's services as we've talked about a
6 second ago.

7 THE COURT: Okay. So, just so I'm clear, no 56,
8 58 or whatever cases? I mean, I think -- you say you've
9 been representing clients in California, but you've been
10 doing it through or under Ms. Kalra's Bar license. Is that
11 the -- the -- the argument here?

12 MR. RAMEY: Yes, your Honor.

13 THE COURT: Okay. Do you have any law that says
14 that that's allowed under the unauthorized practice of law
15 rules or case law?

16 MR. RAMEY: I don't have it before me now. I do
17 know that under -- that it was our -- it was our -- from
18 reading the California Rules previously, it was my
19 understanding that we could provide services as long as we
20 weren't holding ourselves out to be an attorney, as long as
21 we were practicing under the direction and guidance of Ms.
22 Kalra. That was our understanding.

23 THE COURT: Okay. So, where does -- I guess I --
24 where does the phrase "under the Bar license" of another
25 lawyer come from? Is that something from cases? It sounded

1 like it came from some legal source. Is that just a --
2 where did it come from I guess is the question?

3 MR. RAMEY: I think I may have grabbed that -- my
4 thought may have come back from the Texas Rules of
5 Professional Conduct because they -- they -- recently the
6 Texas Supreme Court updated the Rules in Texas for Texas
7 lawyers, and they -- they didn't say under the Bar license
8 but under the guidance of a responsible attorney. That may
9 have been where that came from.

10 THE COURT: Okay. Okay. Sorry. I'm circling
11 back a little bit. So, in the OSC response, you said that
12 Mr. Ramey -- the decision was made by Mr. Ramey at the rest
13 of -- request of Doctor Gorrichategui in early '22 to
14 attempt to reduce costs by not automatically filing pro hac
15 vice applications.

16 I just want to be clear. Mr. Ramey, was that your
17 decision alone, to not file the pro hac vice applications in
18 response to that request?

19 MR. RAMEY: It had been our practice already to
20 which we were approved in cases, but we -- we had been
21 filing in some of them, and then he had asked us to stop.
22 So, I'm the one that made that decision, yes.

23 THE COURT: Okay. So, I just want to make sure.
24 Mr. Kubiak, were you involved in that decision?

25 MR. KUBIAK: No, sir.

1 THE COURT: Okay. Ms. Kalra, were you involved in
2 that decision?

3 MS. KALRA: No, your Honor.

4 MR. RAMEY: She was not.

5 THE COURT: Did any of the three of you have
6 discussion about that decision at any point?

7 MR. RAMEY: I don't recall a discussion with --
8 with either Ms. Kalra or Mr. Kubiak.

9 THE COURT: All right. And the request from Mr.
10 Gorrichategui was in early '22, but you did submit a
11 declaration from him. He doesn't make any mention of that.
12 I guess -- I guess the question is why -- since he made the
13 request, why wasn't it in his declaration?

14 MR. RAMEY: We -- he made the specific -- his --
15 he was looking at it strictly for Rule 11 purposes.

16 THE COURT: Yeah.

17 MR. RAMEY: So -- so, I believe that was an
18 oversight on our part, your Honor.

19 THE COURT: Okay. All right.

20 MR. RAMEY: But you have it in my declaration
21 and --

22 THE COURT: No, no. I just -- it was curious that
23 it's in your dec but the person who actually made the
24 request, you had his declaration. I was curious why he
25 didn't say, Yes, I did say that. It's kind of like triple

1 hearsay at some point, right? That's fine.

2 Okay. So --

3 MR. RAMEY: Well, I mean, we can call Mr. -- get
4 Doctor Gorrichategui to submit a subsequent declaration that
5 this is -- this is what happened.

6 THE COURT: I take -- I take your representation.

7 Okay. So, again, just so I'm clear, the decision, at
8 least as of 2022 not to file pro hac vice applications was
9 to reduce costs. That was the -- the motivating factor,
10 right?

11 MR. RAMEY: That was a factor. It was -- Doctor
12 Gorrichategui -- we -- we were already in the majority of
13 the cases not doing that, and then -- but he had asked us to
14 this. So, yes, your Honor.

15 THE COURT: Okay. And, so, in the majority of the
16 cases where you already were not doing that, was that also
17 to reduce costs?

18 MR. RAMEY: No, your Honor. As I said before,
19 that was -- that was simply the -- we were waiting until we
20 were further in the case before we did that. And that was
21 a --

22 THE COURT: The cost issue was not -- not even a
23 factor in those earlier cases?

24 MR. RAMEY: No, it wasn't, your Honor.

25 THE COURT: Okay. And did the -- did the not

1 filing of the pro hac vice applications and, therefore, not
2 paying the fees, did that reduce costs for your law firm as
3 well or would you always have gotten reimbursed by clients?

4 MR. RAMEY: We would only be reimbursed for our
5 expenses if there was a recovery from the client for the --
6 for -- not for necessarily just that case but from the --
7 the -- whatever cases that particular LLC was filing.

8 THE COURT: Okay. Don't get into too much detail,
9 but I believe that your firm primarily works on contingency
10 basis?

11 MR. RAMEY: A large portion of our work is
12 contingent based, your Honor.

13 THE COURT: Okay. So, there'd be a number of
14 cases where the pro hac vice application fees wouldn't get
15 reimbursed if the client doesn't get recovery from those
16 cases, right?

17 MR. RAMEY: Well, your Honor, as I said, there
18 might be -- we typically seldom have only one or two cases
19 per client. So, we -- you know, the expenses are -- I can't
20 count in any case except for -- that we weren't reimbursed
21 our expenses.

22 THE COURT: All right. And for the -- certainly
23 since the -- to be 100 percent clear on this, the decision
24 not to file the pro hac vice applications after early 2022,
25 that was not based on any kind of accounting error or

1 | calendaring error? It was -- it was a decision based on
2 | that client's request, right?

3 MR. RAMEY: Yes, sir.

4 THE COURT: Okay. All right.

5 Mr. Ramey, about how many times per year have you
6 traveled to California for work in the last couple of years?

7 MR. RAMEY: This year, your Honor, this may only
8 be my second trip to California. Last was in -- Judge
9 Holcomb in the Central District and then here, your Honor.
10 So, I think that's correct. The prior years, I -- I can't
11 recall being in California in 2023. I'm not saying I
12 wasn't, but I can't recall being in California.

13 THE COURT: Mr. Kubiak?

14 MR. KUBIAK: Yes, your Honor. This case -- of
15 course, I'm here today -- and the pro hac appearance that I
16 made in the -- the one case, and I was not in California,
17 but I -- I'm counting the Zoom call as --

18 THE COURT: Okay.

19 MR. KUBIAK: -- being here.

20 THE COURT: All right. And going back let's say
21 in the last three, four years, have you met with clients in
22 California?

23 | MR. KUBIAK: No, sir.

24 MR. RAMEY: No, your Honor.

25 THE COURT: Okay. Have you met with opposing

1 counsel and opposing parties in California?

2 MR. RAMEY: No, your Honor.

3 MR. KUBIAK: No, never.

4 THE COURT: Okay. Have you negotiated settlements
5 in California?

6 MR. RAMEY: No, your Honor.

7 THE COURT: Have you negotiated patent transfer,
8 monetization or sales or purchase agreements in California?

9 MR. RAMEY: No, your Honor.

10 MR. KUBIAK: No, sir.

11 THE COURT: How many times have you taken or
12 defended depositions in California?

13 MR. RAMEY: Never, your Honor.

14 MR. KUBIAK: Never.

15 THE COURT: How many times have you appeared in
16 hearings, oral argument, conferences in a California court?
17 Let's go like four or five years max.

18 MR. RAMEY: Okay. Your Honor, I can think of the
19 JIMSA case, and I was -- that was Judge Alsup, and I tend to
20 -- I believe I was admitted in that case. I know you said I
21 wasn't. So, I'm not going to question that, your Honor, but
22 -- but I did appear for hearings in this court. So, I'm
23 fairly certain he had admitted me at some point.

24 THE COURT: It's possible.

25 MR. RAMEY: The -- the Judge Holcomb, we did a pro

1 hac vice down in the Central District when I -- when I had
2 to appear. That was our -- our practice, and then this
3 Court, and you did a pro hac for us in a previous hearing I
4 understand. And then Judge Tigar did a pro hac in that
5 case, and that -- '23. So, I wasn't -- it was Zoom
6 hearings, your Honor. So, I wasn't actually in California,
7 but I had probably, now that I think about it, probably four
8 or five hearings with Judge Tigar, but I was pro hac in
9 that.

10 THE COURT: In the last four or five years, trials
11 in California, either of you?

12 MR. RAMEY: No, your Honor.

13 MR. KUBIAK: No, your Honor.

14 THE COURT: Okay. Arbitrations or mediations?

15 MR. RAMEY: No, your Honor.

16 MR. KUBIAK: No, sir.

17 THE COURT: All right. Settlement conferences?

18 MR. RAMEY: No, your Honor.

19 MR. KUBIAK: No.

20 THE COURT: Going back to the physical offices,
21 both in Redwood City and Los Angeles, do either of you have
22 your own office within that location?

23 MR. RAMEY: No, your Honor.

24 MR. KUBIAK: No.

25 THE COURT: I think Ms. Kalra described that she's

1 got a physical office. Is it big enough to accommodate even
2 more than one attorney?

3 MR. RAMEY: I think it would be. Just it wouldn't
4 be comfortable.

5 THE COURT: Well, are they separate offices for
6 different attorneys within the actual location?

7 MR. RAMEY: It's just one office, your Honor

8 THE COURT: Okay. All right. Speaking with Ms.
9 Kalra, the OSC response on page four says that Ms. Kalra was
10 not aiding or abetting the unauthorized practice of law as
11 she was always licensed. Well, okay. I mean, it's hard --
12 you can't -- that's such a response -- she can't really aid
13 and abet itself, right. She's licensed, right. The
14 question is since neither of you two are licensed, I didn't
15 see anything in the OSC response that separates -- let me
16 put it this way. If, hypothetically, the Court finds that
17 there has been unauthorized practice of law here by either
18 of you two, is there a separate reason why Ms. Kalra should
19 not necessarily then be found to have been aiding and
20 abetting that? Again, hypothetically in the first part.

21 MR. RAMEY: I think that would be a -- a mens rea
22 where she would have to intentionally try to allow us on a
23 -- to commit the unauthorized practice of law. And,
24 clearly, she was not trying to -- to cause us to commit the
25 unauthorized practice of law in the State of California.

1 THE COURT: Mr. Kubiak?

2 MR. KUBIAK: Your Honor, I tend to agree with Mr.
3 Ramey. I think she would have had to have had some intent
4 to do it.

5 THE COURT: Okay. All right. Let's talk about
6 number two, dismissal rule. So, under Rule 41(a), we all
7 know if you voluntarily dismiss a case twice, the second one
8 acts as a judgment on the merits and bars the -- a third
9 case.

10 So, Koji voluntarily dismissed the Colorado case -- we
11 call that the first case -- by notice under Rule
12 41(a)(1)(A)(I) and also then voluntarily dismissed what
13 we've been calling the second case here by notice under Rule
14 41(a)(1)(A)(I) as well.

15 So, I think I asked Ms. Kalra this. At the time that
16 you filed the third complaint here, had you done any
17 research or analysis as to why that third complaint was not
18 barred by the two dismissal rule?

19 MR. RAMEY: Yes, your Honor. I knew from my years
20 of practice. This is an issue that had came up early on in
21 my practice when I was in a firm called Mathews Joseph
22 Shaddox and Mason that they had dismissed some cases and
23 then weren't -- that's when we came to the Rule 41 rule,
24 that the second dismissal typical bars you. But there's --
25 there -- as in most issues of law, there's -- there's

1 exceptions that -- that can allow it to be refiled. And,
2 so, I knew that exists and actually would work in Doctor
3 Gorrichategui's cases. This came back in some of the DATREC
4 cases, not the one that you're referencing that we needed to
5 look to whether we could refile that, and that's
6 -- that's where it came up again, and I saw that there were
7 all those exceptions. So, I knew that there could. And, as
8 we said in the pleadings, your Honor, the first dismissal we
9 filed based on what we thought was good venue from -- from
10 what you see in the pleadings, an image on their website
11 where they say they -- that that's the location of them, and
12 they then presented some affidavits. And, so, it's not
13 that's an authorized salesperson. And, so, we didn't think
14 we'd from that evidence. We asked -- originally had asked
15 simply that we just transfer the case to California. And
16 the Defendants wanted a dismissal. That's fine. We
17 dismissed it. But that -- in my mind, that would be one
18 explanation of why that third -- why the -- that second 41
19 dismissal of the first California case wouldn't qualify as a
20 second dismissal on the merits. That was the reason we --
21 we filed the third case.

22 THE COURT: So, you don't cite any case law that
23 says a dismissal that's motivated by venue issues doesn't
24 count. I mean, I say -- I think you say you -- you argue
25 that, right, that it shouldn't, but I didn't see any law

1 that says that that's one of the exceptions that you're
2 referring to.

3 MR. RAMEY: Precisely, your Honor. So, I knew the
4 law, and then later -- and when we -- when this Court
5 brought it up, we researched it again. We verified that is
6 the law in California. And, but, as I said in the
7 pleadings, after we started talking -- talking to the
8 Defendants' counsel, we went back and looked at that and
9 researched it, couldn't find anything directly on point, the
10 venue. And, so, because of the -- not wanting to burden the
11 Defendant, we dismissed before they had to answer. That was
12 100 percent exactly why we did that.

13 The -- you know, we -- we knew that generally you can.
14 You can make the argument to a court, and the court can
15 accept that argument or not is -- is what it sort of is
16 right now. If you make -- if you show extraordinary -- I'm
17 not reading it right now, but it's basically if you show
18 circumstances that -- that merit the filing of the third
19 complaint, that there was something odd that happened in the
20 history, and I think the venue is something odd that
21 happens. However, because, as I say in there, we -- we
22 looked hard for a case that was directly on point after
23 talking to -- to Defendants' counsel, and while we didn't
24 find anything, the client said just dismiss it.

25 THE COURT: Yeah. So -- okay. So, I'm not really

1 that concerned about what you did post-complaint. I'm
2 really more concerned about what you did in terms of
3 researching or looking into the issue when you file -- at
4 the time of or before you filed the third complaint. I
5 mean, is there -- you didn't submit it, I assume. There's
6 -- there's no memo that was filed. There's no research
7 memo. There's no billing records that show that you -- the
8 amount of work you did kind of thinking about and working on
9 the issue. Is that --

10 MR. RAMEY: No, your Honor, but I -- but I knew
11 the law. I mean, the -- so, I mean, that's what you -- you
12 gain experience in the law from practicing. So, I knew it
13 was something we could do, but -- but, as I said, when we
14 couldn't find that case exactly on point after Defendants'
15 counsel brought the issue up and our client said, Well, we
16 don't need to fight about fees. Let's just dismiss it. And
17 that was the -- that was the basis for it.

18 THE COURT: Okay. I mean, did you -- did you
19 consider the issue about the two dismissal rule before you
20 filed the third complaint?

21 MR. RAMEY: Yes, your Honor. We knew that it had
22 been dismissed before.

23 THE COURT: Yeah.

24 MR. RAMEY: We knew it had been dismissed. We --
25 I mean, we did, in fact, ask that -- you know, that we just

1 transfer, but that -- that was -- and, fine, we'll dismiss
2 it. We -- the venue rules in patent cases, as this Court's
3 aware, have become difficult. And, so, when they put
4 forward a declaration, even though we had a website image,
5 that declaration's going to carry the day. And then we
6 would be burdening the Court -- or burdening the Defendant
7 and the Courts with extra work. So, we -- we thought what
8 we were doing was the least burdensome manner to get rid of
9 the case in Colorado.

10 And, in truth, as we look at it now, your Honor, our
11 true issue, the mistake we made is dismissing that first
12 Colorado -- the first -- pardon me -- the first California
13 case. We should have -- we could have held onto that case
14 because we were -- the client had already identified that
15 product. They didn't have it charted. But, again, because
16 of the sales being \$4,000 of that first product, we tried to
17 reduce the cost for everyone.

18 THE COURT: Okay. So -- okay. So, before filing
19 the third complaint, you -- with regard to the two dismissal
20 rule, it was based on I think you said your experience of
21 just your general knowledge of the law, is that -- is that
22 right?

23 MR. RAMEY: One hundred percent, your Honor.

24 THE COURT: Okay. And I think Ms. Kalra's
25 declaration says something to the same effect. Did you two

1 | talk about the issue before you filed the third complaint?

2 MR. RAMEY: She -- I made her aware we were filing
3 the third complaint, yes.

4 THE COURT: No, but I'm talking about the -- the
5 two dismissal issue specifically. Did you talk about it?

6 MR. RAMEY: I don't recall a specific conversation
7 on that. I'm not going to say it didn't happen. We have
8 lots of conversations about the cases that are going on and
9 the direction of the firm.

10 THE COURT: Okay. Ms. Kalra, do you have any
11 memory?

12 MS. KALRA: I don't have a specific memory of that
13 particular conversation, and I agree with Mr. Ramey we
14 talked about a lot of things, and we talked frequently.

15 THE COURT: Okay. So, other than your opinions
16 and kind of based on your experience in the law, there's no
17 other -- you didn't -- like I said, you didn't cite any case
18 law? There's not a legal basis for avoiding the two
19 dismissal rule other than your own beliefs at the time, is
20 that right?

21 MR. RAMEY: No, your Honor. In fact, we did cite
22 to the Court a case that's specifically out of California.
23 I'm sorry. Now I'm forgetting where it is.

24 THE COURT: The Mill Creek Athletics case that you
25 cite? Is that what you're talking about?

1 MR. RAMEY: Yes, your Honor.

2 THE COURT: Yeah. So, let's talk about that. So,
3 Mill Creek Athletics was a case discussing whether costs and
4 fees should be awarded under Rule 41(d). It doesn't ever
5 discuss whether a complaint is barred under Rule 41(a). So,
6 I don't -- I don't understand how Mill Creek Athletics
7 provides a legal standard for filing a third complaint here.
8 And that case only involved a second complaint.

9 MR. RAMEY: Your Honor, I -- I know I cited one in
10 here because that was the -- I know I talked about this.
11 you know what, your Honor? It's in the -- it's in the
12 briefing on the response to the motion for fees. It's on --
13 in the show cause response. I noticed that when I was
14 preparing -- when I was reviewing this morning, that that --
15 there was a chunk of argument that could have been put in
16 this response as well. But the case law is there.

17 This Mill Creek Athletic, I'm not recalling this case.
18 I thought that this case -- well, this one's -- this case
19 simply showed that, you know, that attorney's fees aren't
20 recoverable and would be okay. So, I am recalling that
21 case now. But the -- the other one I know the briefing was
22 in the response to the motion for fees. I don't think I
23 have that pulled up on my computer either because I -- I
24 didn't come with that. So, I'm -- there is a -- there is a
25 case in that briefing, your Honor, that -- that's -- that's

1 the reason we did -- allowed it to happen.

2 THE COURT: There's a case you cited in the
3 opposition to motion for fees that says you're allowed to
4 file a third complaint?

5 MR. RAMEY: There's reason -- reasonable -- I
6 mean, I think it may be in here somewhere. Pardon me, your
7 Honor. I'm sorry.

8 THE COURT: That's okay. I'm -- that's why I'm
9 asking the question because I didn't see anything.

10 MR. RAMEY: I apologize, your Honor.

11 THE COURT: So, while you're pulling that up,
12 since you are referring to the motion for fees, I'll let Mr.
13 Kubiak jump in if he knows what case we're talking about.

14 MR. KUBIAK: I'm not aware of any case cited on
15 that particular point, your Honor. And, just to correct the
16 record, I don't believe -- my recollection is they never
17 offered to transfer the first case here. They just
18 dismissed. And I think there was representation that our
19 folks made, and I don't remember that happening.

20 MR. RAMEY: In a phone conversation I had with Mr.
21 Cronacks (phonetic) about this, we had specifically said we
22 could dismiss this -- or agreed to a transfer, and he said
23 he'd rather we dismiss it. We dismissed. I think it was
24 within a day we dismissed. So --

25 THE COURT: All right.

1 MR. RAMEY: I don't see it in my declaration, your
2 Honor.

3 THE COURT: Your declaration only cites Mill Creek
4 Athletics.

5 MR. RAMEY: But I know -- well, in the interest of
6 time -- we can certainly look at your opposition to the
7 motion. You think it's somewhere in the opposition to the
8 motion for fees?

9 MR. RAMEY: I thought it was, your Honor, but I
10 know I read the case in preparation for this hearing. I
11 went back over that.

12 THE COURT: Okay. Let's -- so, in the current
13 record, there's no case law that you're able to cite to me
14 that says what the standard is and why you're allowed to
15 file a third complaint after voluntarily dismissing the
16 first two, right?

17 MR. RAMEY: Your Honor, no. It's -- it's in the
18 -- the pleadings to the Court. I just -- I'm sorry. I
19 can't --

20 THE COURT: Okay. We'll look in your opposition
21 brief on the motion for fees and go from there.

22 And then in the opposition -- not the opposition. In
23 the OSC response, at page 14, you said the dismissal in
24 Colorado was more akin to convenience. Again, I -- you
25 don't cite any law. Is there any law that says that a

1 dismissal for convenience doesn't count for Rule 41
2 purposes?

3 MR. RAMEY: No, your Honor. There -- what it
4 says, there's law that -- that I cite in the pleading. In
5 the pleadings it says that absent special circumstances, you
6 know, you can't file a third complaint. The second one
7 operates as a dismissal with prejudice. That's what the law
8 is, and it's -- I cited a Ninth Circuit case for that. But
9 I'm not seeing it right now, your Honor.

10 The -- and I'm sorry if I've forgotten your exact
11 question. I apologize.

12 THE COURT: There's no -- you used the phrase
13 dismissal for convenience. I just wanted to make sure.
14 There's no law that says a dismissal for -- I don't even
15 know what a dismissal for convenience is. It's not a --
16 it's not in the Rules, but a dismissal for convenience is
17 not exempt from the two dismissal rule under Rule 41, is it?

18 MR. RAMEY: I think it could be because it would
19 be one of those special circumstances that we were talking
20 about, your Honor, that -- that's allowed.

21 THE COURT: Okay. So, if you've got case law in
22 the opposition to the motion for fees that addresses that,
23 we'll look for it.

24 And, also, you know, I think you say in the OSC
25 response and I think Mr. -- sorry -- Gorrichategui --

1 MR. RAMEY: Yes, your Honor.

2 THE COURT: -- says in his declaration that you --
3 "Mr. Ramey informed me that we would likely lose the venue
4 motion," which is why he authorized the dismissal of the
5 Colorado case. So, I mean, if there was a recognition
6 internally on your side that you'd likely lose the venue
7 motion, it's not really -- it's not really a dismissal for
8 convenience, right? I mean, it's a tactical decision that
9 you're going to lose the venue issue.

10 MR. RAMEY: No, your Honor. I'd strongly disagree
11 with that. We were trying to save the parties resources
12 because starting a venue fight means we're going to have to
13 conduct discovery. That was the -- you know, discovery of
14 -- discovery of -- of Koji's people then, so, to avoid that.
15 That was the basis for it. So, it is -- and the convenience
16 would mean so we don't have to go into the venue discovery.
17 They said, Hey, California's the right place for this suit
18 to be. So, that's what -- that's what I meant by that is
19 that it is for saving the parties resources, which is what
20 -- what I thought the -- the law tried to do is encourage
21 counsel to discuss matters with one another in hopes of
22 justice and speedy resolution. So, we were simply trying to
23 reduce the -- the burdens for everyone.

24 THE COURT: Okay. So, you're not relying -- just
25 so I'm clear, because you do cite it in the OSC response in

1 your declaration. You're not really relying on
2 Mill Creek Athletics as authority for the filing of the
3 third complaint, right? Because that's a fees and cost
4 case. It's not a barred complaint case.

5 MR. RAMEY: Right. But I'd have to go back and
6 see. It might also cite the -- the standard for that. I
7 don't recall off the top of my head, but I know that the --
8 I just read the -- the case, you know, in the last couple of
9 days, the case law about that.

10 THE COURT: Okay. You also in the OSC response
11 make note that a third complaint charted a different product
12 than that was charted in the second case and even in the
13 first case, the same. Is there any law that you cited that
14 says -- or that you know of that says that the third
15 complaint isn't barred because it's charting different
16 products, even though it's the same party, same patent?

17 MR. RAMEY: No, your Honor. I'd say the law is
18 there's reasonable explanation that can be made that does
19 allow the third case. I wouldn't say that it's because it
20 was a new product. That was just one of the other
21 additional factors that could go to allowing you to file --
22 file that third complaint. That's all.

23 THE COURT: Okay. And, again, is that -- we'll
24 have to look at whether the case law in your opposition to
25 the motion for fees goes to that issue.

1 Okay. Ms. Kalra, in your declaration -- it's not in
2 the OSC response. At paragraph 27 of your declaration, you
3 said that there are exceptions that allow the refiling of a
4 complaint where previous dismissal was made pursuant to
5 stipulation, but you don't cite any case law on that.
6 What's -- what's your support for that assertion?

7 MS. KALRA: It's actually in Rule 41, and I think
8 it is (a) -- (a)(1)(A)(ii).

9 THE COURT: Okay. So, but --

10 MS. KALRA: But I -- I do see that -- after I
11 looked at the law, subsequently, I did see that it has to be
12 signed by both parties.

13 THE COURT: That's what a stipulation is, right?

14 MS. KALRA: Correct. Well, a stipulation can also
15 be an agreement that's not necessarily executed by people.
16 I mean, I've seen stipulations by email where everybody
17 says, Do you stipulate? Yes. So --

18 THE COURT: But that's deemed a signature because
19 it -- it's a confirmation.

20 MS. KALRA: Correct.

21 THE COURT: Right. So, but you talk about
22 exceptions for dismissals by stipulation, but how is that
23 relevant to the issues here? There was no -- none of the
24 prior dismissals were by stipulation.

25 MS. KALRA: So, it was my understanding that the

1 prior -- that the dismissal in Colorado -- I wasn't involved
2 in the Colorado case itself, but it was my understanding
3 that the dismissal in the Colorado case was by agreement
4 between the parties, and I probably, you know, should have
5 looked a little harder at that, but I took that at face
6 value.

7 THE COURT: Okay. I mean, the document says what
8 it says, but I'll say it. It -- it is a notice of
9 dismissal. It's only signed by Mr. Ramey. It's not signed
10 by -- by opposing counsel. So, I -- does the -- the
11 stipulation issue, I mean, is it even germane here?

12 MS. KALRA: Only as far as that was my
13 understanding initially was that everyone had agreed to the
14 dismissal.

15 THE COURT: Okay. But the actual dismissal is not
16 a stipulation. It's a notice of dismissal. I mean, pull it
17 up. It's a notice of dismissal.

18 MS. KALRA: Correct. And I -- and I know that
19 sort of in -- having looked at it but not on the spur of the
20 moment.

21 THE COURT: Okay.

22 MS. KALRA: So, I looked at it a little bit later
23 than the initial filing.

24 THE COURT: Okay. Okay. Very briefly, and this
25 is because in the interest of time, on the prefiling

1 analysis with regard to infringement, Mr. Ramey, the OSC
2 response is -- and I take it that you -- you had taken the
3 position that the claims had their plain and ordinary
4 meaning before you filed the third complaint, right?

5 MR. RAMEY: Under the Federal Circuit law, the
6 heavy bias towards that, yes, your Honor.

7 THE COURT: Okay. And, again, you didn't submit
8 anything. Is -- is there any written work product that is
9 -- that precedes the filing of the third complaint that --
10 that shows that -- the analysis to make sure that it is
11 plain and ordinary meaning?

12 MR. RAMEY: Yes, your Honor. Our comparison of
13 the claims -- the claim elements are in the claim chart from
14 the patent, and then -- from our reading of the patent and
15 from our reading as applied to the accused device.

16 THE COURT: But there's no -- I mean, the claims
17 chart is an infringement chart. There's no claim
18 construction column, right?

19 MR. RAMEY: But I don't -- I don't understand what
20 the Court means, and we do have a column with the claim
21 elements.

22 THE COURT: Yeah.

23 MR. RAMEY: And then the -- the accused elements
24 from the Defendant's accused instrumentality with a
25 description of why we think that element is met in -- in

1 each instance.

2 But I think Mr. Kubiak wants to add something, your
3 Honor.

4 MR. KUBIAK: Yes, your Honor. With regard to the
5 claim charts and infringement analysis, many times that
6 would be me, but -- and I would have to go through the
7 specification because sometimes the -- the claim charts are
8 confusing at best. And, so, I have to go back and figure
9 out what the -- as far as is there something in the file,
10 written analysis. Usually I'll do it on a yellow pad, and
11 when I'm done, I'm done, and I -- I don't keep those. Once
12 I'm satisfied with whatever claim construction it is, that's
13 -- that's pretty much the end of it. And, so, then I --
14 then I would go through and compare it to whatever the
15 device is.

16 THE COURT: Okay. So, actually -- actually, it
17 was a little bit unclear to me because there's reference to
18 Mr. Sanatori (phonetic). In the claims chart for the third
19 complaint, did you work on that or Mr. Ramey or --

20 MR. KUBIAK: For the third complaint, that would
21 have been Mr. Ramey.

22 THE COURT: Okay. You worked on the one for the
23 first and second complaints?

24 MR. KUBIAK: That's correct.

25 THE COURT: Okay.

1 MR. RAMEY: And I worked on -- I didn't mean to
2 cut you off.

3 THE COURT: No. Just that -- so, I was going
4 where I think you were going to go, just was there
5 collaboration between the two of you on any of the charts
6 that the other one was working on?

7 MR. RAMEY: Yes. We 100 percent certainly look at
8 each other's work.

9 MR. KUBIAK: Many times, yes. It might not be as
10 detailed as -- as providing him here's -- here's my basis
11 for it, as opposed to just sitting down. Typically we take
12 all day Tuesday to go over whatever we're going over and
13 just say, Here's what I found. This is what I think.

14 MR. RAMEY: So, certainly. And that actually is a
15 good point Mr. Kubiak brings up. We do in the firm exactly
16 for this purpose have Tuesdays set aside for -- for meetings
17 where we go through every case that's in the firm and then
18 look at every issue, look at the case, because we don't want
19 to miss any of these issues or have something inappropriate
20 occur.

21 THE COURT: And I think in the OSC response you
22 say on page 16 that there are two situations where a claim
23 term can deviate or not be its plain ordinary meaning.
24 That's where the patent case and lexicographer or the term
25 so deprives the claim of clarity that there's no means by

1 which the scope may be ascertained from the language used,
2 which I think you were referring to. So, that's the way you
3 -- you went through those two and then decided that neither
4 of them applied, so you could use plain and ordinary
5 meaning. Is that for the --

6 MR. KUBIAK: Yes, sir.

7 THE COURT: -- charts? Is that --

8 MR. RAMEY: Yes, your Honor.

9 THE COURT: Okay. And I think you say it, I just
10 want to be 100 percent clear. Ms. Kalra didn't work on any
11 of the claims terms for any of the complaints, right?

12 MR. RAMEY: She would --

13 MR. KUBIAK: She did not work on the claim chart.
14 She would accept whatever we told her as -- as accurate.

15 THE COURT: Okay. All right.

16 Ms. Kalra, I think your declaration says that you
17 relied on -- for the claims charts, you relied on Mr. Ramey
18 for the third complaint and I assume Mr. Kubiak for the
19 second complaint. Is that right?

20 MS. KALRA: That's correct, but I reviewed them
21 before they got filed to just double check that we had
22 everything in the claim charts that we need to have in in
23 the exhibit.

24 THE COURT: Okay. How much time did you spend
25 reviewing the claims charts?

1 MS. KALRA: I looked at the claim charts. I
2 looked at the patent, about an hour and a half.

3 THE COURT: And for the third complaint, Mr.
4 Ramey, about how much time did you spend on that claims
5 chart?

6 MR. RAMEY: Your Honor, I spoke with Doctor
7 Gorrichategui and with Mr. Sanatori. So, Mr. Sanatori works
8 for Doctor Gorrichategui. We discussed that claim chart for
9 approximately an hour and a half when they first presented
10 it to me. The question I asked back to them is was this
11 product included with the previous claim chart, and -- and
12 then they said no, and they didn't think it was part of the
13 -- the sales stream we had because it wasn't included
14 before, and we checked our emails, saw that it likely wasn't
15 included in the prior numbers that came from Renesas. And
16 then I went back to the claim chart again, looked at it,
17 made sure all the elements were -- were addressed by their
18 plain and ordinary meaning. Probably at that point it was
19 another 45 minutes. So, it's total about two hours and
20 fifteen minutes.

21 THE COURT: Okay. And, Mr. Kubiak, about how much
22 time did you spend conferring on the third complaint's claim
23 chart?

24 MR. KUBIAK: On the third complaint? Very little.
25 I mean, I knew what was going on, but as far as really

1 talking about it, that was pretty much between Mr. Ramey and
2 Ms. Kalra.

3 THE COURT: Okay. And how much time did you spend
4 on the claims chart that was attached both in the first case
5 and --

6 MR. KUBIAK: One and two?

7 THE COURT: Yeah, first and second complaints.

8 MR. KUBIAK: For the -- for the very first claim
9 chart, I probably spent six, seven hours on it. Mr.
10 Sanatori is very bright, but I don't always agree with him.

11 THE COURT: And I think I asked Ms. Kalra this in
12 the last hearing. I wasn't sure she knew the exact answer.
13 Mr. Sanatori is not a patent agent? He's not a member of
14 the Patent Bar?

15 MR. KUBIAK: As far as I know he is not.

16 THE COURT: He's not a lawyer?

17 MR. KUBIAK: No.

18 THE COURT: Okay.

19 MR. RAMEY: No, no, no. He -- I think he -- in
20 his declaration, he specifies his technical experience. He
21 has 20 years doing this type of work, but -- but you're
22 right. That's why Mr. Kubiak and I and Ms. Kalra, you know,
23 we review what he does, and we don't accept it at face
24 value.

25 THE COURT: Okay. All right. Let me just make

1 sure I don't have any other questions. Okay.

2 So, last chance. Any other matters, anyone, Ms. Kalra
3 as well, want to bring to my attention or raise with the
4 Court that you haven't had a chance to?

5 MR. RAMEY: No, your Honor. I'd simply like to
6 say on behalf of me and Mr. Kubiak and my firm and Ms. Kalra
7 that I -- we never intended to get Ms. Kalra in any issues
8 with the California State Bar, and we never, as our law
9 firm, intended to practice law in California. And, so, we
10 -- we -- we do -- we do tell the Court that we've changed
11 our practices. We -- we made a mistake. We accept that
12 fact. We've -- we've done what we can to fix that and
13 rectify it going forward. It won't -- won't happen again,
14 unless we can get a license or in cases we get admitted pro
15 hac vice.

16 THE COURT: You're always free to take the
17 California Bar exam. Nothing's stopping you from doing
18 that.

19 MR. RAMEY: I've thought about it many times, your
20 Honor.

21 MR. KUBIAK: Too old, sir.

22 THE COURT: I didn't really probe this, but --
23 because it's not -- it's more what you're going to be doing
24 going forward. Is it your going forward practice going to
25 be that -- I understand nobody's going to be on the

1 pleadings unless they're either already going to be admitted
2 pro hac or -- or they're already a member of the California
3 Bar, right? But are you also going to work on the case from
4 Texas and just funnel everything to Ms. Kalra without being
5 on the pleadings? Is that the -- is that -- she can't work
6 on the cases alone, right?

7 MR. RAMEY: She will handle the legal
8 representation of the case, and we would be involved in
9 assisting her with the technical aspects of the case. The
10 client is based in Texas.

11 THE COURT: Yeah.

12 MR. RAMEY: And we'd be advising the client there
13 for -- for that purpose on infringement, but all the legal
14 analysis, anything that would have to be in California would
15 go through Ms. Kalra.

16 THE COURT: That includes claims charts for
17 complaints in the future or for infringement contentions,
18 right?

19 MR. RAMEY: She --

20 THE COURT: I mean, she can't draft those from
21 scratch herself, right?

22 MR. RAMEY: Well, correct, but she -- right now,
23 so, it's her current practice that she looks at everything.
24 She has the -- the say before -- if she doesn't like a claim
25 chart, it won't get filed.

1 THE COURT: Okay.

2 MR. KUBIAK: I see our position as being like her
3 law clerk essentially.

4 THE COURT: Okay. I think I've asked this, but do
5 you know of any California ethics opinions that allow you to
6 do that, that is, prepare documents for her that she will
7 review but then file in California courts but that's not --
8 that doesn't count as the unauthorized practice of law here?
9 Because it's -- it goes beyond simply advising the client,
10 right? You're preparing documents that you know are
11 intended to be filed in a California court.

12 MR. RAMEY: We're providing the -- the services of
13 Mr. Sanatori, they were helping prepare something that she
14 has the final say on approving.

15 THE COURT: Yeah.

16 MR. RAMEY: We -- we use our experience as
17 registered patent agents to do that and our experience with
18 the client.

19 THE COURT: But just more specifically, because
20 they -- did you cite -- are you aware of, because you didn't
21 cite any -- are you aware of any law, any California ethics
22 opinions, anything that allow you to do that work knowing
23 that it's going to be intended to be filed in a California
24 court and where the State Bar has said, yes, that's not the
25 unauthorized practice of law?

1 MR. RAMEY: I'm not -- I'm not aware of an
2 opinion, your Honor, that says that -- I'm not aware of any
3 specific opinion on that issue.

4 THE COURT: Okay. All right. Mr. Crotty, I'll
5 give you one chance to speak, only if it deals with the
6 motion for fees, though, because that -- there has been some
7 discussion.

8 MR. CROTTY: Just as a factual matter, most of the
9 communications on this case are about settlement.

10 THE COURT: Yeah.

11 MR. CROTTY: And I don't know where that falls in
12 terms of like -- I know they're going to change the
13 pleadings but the substance of who's doing what, most of my
14 interactions were with Mr. Ramey, mostly over email, joint
15 documents, settlement offers, that sort of thing. So, I
16 don't know what side of the line that falls in.

17 And then as to the fees motion, the only thing I would
18 like to say is that we would consider this part of the
19 manner of litigation that's relevant under Octempics
20 (phonetic), and that's it.

21 THE COURT: Okay. Well, the fee -- from the
22 Court's point of view, the fees motion is submitted. So, I
23 don't want to supplement the record any further. I just
24 wanted to give you a fair chance to talk because there has
25 been some discussion of it.

1 Okay. Are we submitted on the OSC? Anything further?

2 MR. RAMEY: Just one second, your Honor.

3 THE COURT: Sure.

4 MS. KALRA: May I speak with Mr. Ramey for just a
5 second?

6 THE COURT: Sure.

7 MS. KALRA: Thank you.

8 (Pause.)

9 MR. RAMEY: Your Honor, we'd request leave of the
10 Court to file the additional authority on the Rule 41,
11 because I know we cited it in briefing. So, I would just
12 present the case, no argument on it, just present the case
13 to the Court.

14 THE COURT: Well, if you're sure it's in the
15 motion for fees, we'll pick it up that way.

16 MR. RAMEY: I thought it was, your Honor. But I'm
17 just asking -- I'm still asking for motion for leave just to
18 submit that supplemental authority.

19 THE COURT: You can submit it, but you have to
20 point to where it is in the motion for fees, right, because
21 that was the representation. I don't want you -- at this
22 point, I mean, you've already filed your written response.
23 I don't want you going out doing -- you should have found
24 case -- I think you would have found cases by now if you had
25 any. So, yeah, you can -- you can submit the additional

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1 authority --
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2 MR. RAMEY: Thank you, your Honor.

3 THE COURT: -- without argument.

4 Okay. Any -- other than that, submitted?

5 | MR. RAMEY: Yes, your Honor.

6 THE COURT: Okay. Anything further from you, Ms.
7 Kalra?

8 MS. KALRA: No, your Honor.

9 THE COURT: Okay. Mr. Kubiak?

10 MR. KUBIAK: No, sir.

11 THE COURT: Mr. Crotty?

12 MR. CROTTY: No, your Honor.

13 THE COURT: Okay. We're adjourned till the next
14 matter, and an order will issue, you know, in due course.

15 Ms. Kubiak, as to your administrative motion to seal
16 your supplemental declaration --

17 MR. KUBIAK: Ms. Kalra.

18 THE COURT: Am I --

19 MR. KUBIAK: No. It's Ms. Kalra.

20 THE COURT: Sorry. I thought I said Kalra. Ms.
21 Kalra, as to your administrative motion, I'm going to deny
22 in part and grant in part. What I --

23 MS. KALRA: Okay.

24 THE COURT: There's parts of that declaration that
25 are -- that actually go to the -- the OSC response, but

1 parts go to your personal issues. So, submit a proposed
2 redacted version that redacts whatever you consider to be
3 truly personal --

4 MS. KALRA: Right.

5 THE COURT: -- information, and then the Court
6 will consider it.

7 MS. KALRA: Thank you very much, and I appreciate
8 that.

9 THE COURT: All right. I think in the proceedings
10 today that covers everything. So, anything further from
11 anyone?

12 MR. RAMEY: Nothing from Plaintiff, your Honor.

13 MR. KUBIAK: No, your Honor.

14 THE COURT: Okay. Thank you.

15 MR. RAMEY: Thank you.

16 THE COURT: Thank you for your time.

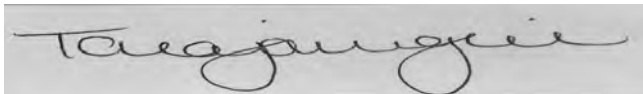
17 THE CLERK: We're off the record in this matter.

18 (Proceedings adjourned at 11:50 a.m.)
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CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.



Echo Reporting, Inc., Transcriber

Monday, September 30, 2024

EXHIBIT E

From: [Gene Quinn](#)
To: [William Ramey](#)
Cc: [Eileen McDermott](#); [Renee Quinn](#)
Subject: IPWatchdog
Date: Friday, April 4, 2025 9:14:48 AM

Hi Bill.

I write today to inform you of my decision to remove your articles and profile from IPWatchdog.com. With you being sanctioned multiple times in multiple courts we cannot allow the taint of your reputation to be transferred to IPWatchdog.

-Gene

Eugene R. Quinn, Jr.
President & CEO, IPWatchdog.com

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Attorneys for Plaintiff
KOJI IP, LLC and
Submitted on behalf of William P. Ramey, III,
Susan Kalra and Jeffrey E. Kubiak

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KOJI IP, LLC,
Plaintiff,
v.
RENESAS ELECTRONICS AMERICA,
INC.,
Defendant.

Case No.: 3:24-cv-03089-PHK

**DECLARATION OF SUSAN S.Q.
KALRA IN SUPPORT OF
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE EXCESS PAGES
MOTION FOR RELIEF FROM
NONDISPOSITIVE PRETRIAL ORDER
OF MAGISTRATE JUDGE
[ECF 42]**

I, Susan S.Q. Kalra, declare as follows:

1. My name is Susan S.Q. Kalra. I have personal knowledge of the facts contained herein, which are true and correct. If called as a witness, I could competently testify to these statements.

2. I am licensed to practice law in the state of California. I represent the Plaintiff in the above-captioned lawsuit.

3. I resigned from my law firm after the Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers¹ issued, following a series of communications with the firm's counsel.

¹ Doc. No. 42.

1 4. I was not identified as counsel in the *Koji IP, LLC v. Renesas Electronics America, Inc.* case filed
2 in Colorado. My name is not on the Complaint or the Request for Voluntary Dismissal (true and correct
3 copies of which are attached as Exhibits A and B).

4
5 5. I was not aware of the Colorado action or the dismissal filed in that case until I read Renesas
6 Electronics America, Inc.'s Motion for Attorneys' Fees and Sanctions filed in the instant case (ECF 18),
7 which was filed after Koji voluntarily dismissed this case (ECF 12). Accordingly, when the instant case
8 was filed (the "Third Action" as referenced in Magistrate Judge Kang's Order Granting Motion for
9 Attorneys' Fees and Sanctions (ECF 43, beginning at 5:14) and in his Order Regarding OSC and and
10 Imposing Sanctions on Ramey Firm Lawyers (ECF 42, beginning at 2:24)), I did not know about the
11 Colorado action, and therefore at the time this action was filed, I had no reason to research the limits of
12 Federal Rule of Civil Procedure 41 or to ask whether Mr. Ramey or Mr. Kubiak did so.
13
14

15 I declare under penalty of perjury under the laws of the United States of America that the foregoing
16 is true and correct.
17

18 Executed April 7, 2025 at Sacramento, California.

19
20 /s/ Susan Kalra

21 Susan Kalra
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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

KOJI IP, LLC,)	
Plaintiff,)	
)	Civil Action No. 1:23-cv-01674
v.)	
)	
RENESAS ELECTRONICS AMERICA)	
INC.,)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Koji IP, LLC (“Plaintiff” or “Koji”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 10,790,703 (“the ’703 patent”) (referred to as the “Patent-in-Suit”) by Renesas Electronics America Inc. (“Defendant” or “Renesas”).

I. THE PARTIES

1. Plaintiff is a Texas Limited Liability Company with its principal place of business located in Travis County, Texas.

2. On information and belief, Defendant is a corporation organized and existing under the laws of the State of CA, with a regular and established place of business located At 2181 So. Grape St., Denver, CO 80222.

3. On information and belief, Defendant sells and offers to sell products and services throughout Colorado, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Colorado and this judicial district. Defendant can be served with process through their registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service, 2710

Gateway Oaks Dr., Ste 150 N, Sacramento, CA 95833, at its place of business, or anywhere else it may be found.

II. JURISDICTION AND VENUE

4. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Colorado and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Colorado and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Colorado and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Colorado and this District.

III. INFRINGEMENT - Infringement of the '703 Patent

7. On September 29, 2020, U.S. Patent No. 10,790,703 ("the '703 patent", included as Exhibit A and part of this complaint) entitled "Smart wireless power transfer between devices" was duly

and legally issued by the U.S. Patent and Trademark Office. Plaintiff owns the '703 patent by assignment.

8. The '703 patent relates to novel and improved methods and systems for for wireless power charging.

9. Defendant maintains, operates, and administers systems, products, and services that infringes one or more of claims 1-4 of the '703 patent, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '703 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

10. Support for the allegations of infringement may be found in the the chart attached as Exhibit B. These allegations of infringement are preliminary and are therefore subject to change.

11. Defendant has and continues to induce infringement. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., for wireless power charging) such as to cause infringement of one or more of claims 1-4 of the '703 patent, literally or under the doctrine of equivalents. Moreover, Defendant has known of the '703 patent and the technology underlying it from at least the filing date of the lawsuit.¹ For clarity, direct infringement is previously alleged in this complaint.

12. Defendant has and continues to contributorily infringe. Defendant has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and

¹ Plaintiff reserves the right to amend and add inducement pre-suit if discovery reveals an earlier date of knowledge.

continues to do so, on how to use its products and services (e.g., for wireless power charging) and related services such as to cause infringement of one or more of claims 1-4 of the '703 patent, literally or under the doctrine of equivalents. Further, there are no substantial noninfringing uses for Defendant's products and services. Moreover, Defendant has known of the '703 patent and the technology underlying it from at least the filing date of the lawsuit.² For clarity, direct infringement is previously alleged in this complaint.

13. Defendant has caused and will continue to cause Plaintiff damage by direct and indirect infringement of (including inducing infringement of) the claims of the '703 patent.

IV. JURY DEMAND

Plaintiff hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '703 patent;
- b. award Plaintiff damages in an amount sufficient to compensate it for Defendant's infringement of the Patents-in-Suit in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award Plaintiff an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award Plaintiff its attorneys' fees, expenses, and costs incurred in this action;

² Plaintiff reserves the right to amend and add inducement pre-suit if discovery reveals an earlier date of knowledge.

- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey LLP

/s/ William P. Ramey, III
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Attorneys for KOJI IP, LLC

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

**KOJI IP, LLC,
Plaintiff,**

v.

**RENESAS ELECTRONICS AMERICA,
INC.,
Defendant**

Civil Action No. 1:23-cv-01674-SKC

JURY TRIAL DEMANDED

PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL

Pursuant to Federal Rule 41 (a)(1)(A)(ii), the Plaintiff, Koji IP, LLC hereby files this notice of dismissal of this action for all of Plaintiff's claims against Defendant, Renesas Electronics America, Inc., as Defendant has not answered or filed a motion for summary judgment. The dismissal of Plaintiff's claims shall be WITHOUT PREJUDICE as to the asserted patent and each party shall bear its own costs, expenses and attorneys' fees.

Dated: September 6, 2023

Respectfully submitted,

/s/ William P. Ramey, III

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Attorneys for Koji IP, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that September 6, 2023, the foregoing document was served on all counsel of record who have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ William P. Ramey, III
William P. Ramey, III

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5 Email: sqklaw@gmail.com

6 *Attorneys for*
7 *Koji IP, LLC, and*
8 *Submitted on behalf of William P. Ramey, III,*
9 *Susan Kalra and Jeffrey E. Kubiak*

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 KOJI IP, LLC,

Plaintiff,

15 v.

16 RENESAS ELECTRONICS AMERICA,
17 INC.,

18 Defendant.

Case No.: 3:24-cv-03089-PHK

**SANCTIONED PARTIES’
EMERGENCY MOTION TO SET
BOND AND STAY ENFORCEMENT
OF JUDGMENT PENDING APPEAL**

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Case No.: 3:24-cv-03089-PHK
SANCTIONED PARTIES’ EMERGENCY MOTION TO SET BOND AND
STAY ENFORCEMENT OF JUDGMENT PENDING APPEAL

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1 Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”)
 2 and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) respectfully move this Court
 3 for an Order staying enforcement of (1) the Order Regarding OSC and Imposing Sanctions on Ramey
 4 Firm Lawyers (“Magistrate’s Order”)(Doc. No. 42)¹ and staying the reporting requirements in (2) the
 5 Order Granting Motion for Attorneys’ Fees and Sanctions (“Magistrate’s Second Order”)(Doc. No. 43),²
 6 pending appeal. The Sanctioned Parties are not currently seeking a stay of any future monetary award
 7 from the Order of Doc. No. 43 as no such award has been set by the Court and cannot be until the briefing
 8 is complete on the matter.
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10 The Sanctioned Parties respectfully request that the Court order expedite briefing on this and
 11 require Defendant’s response, if any, by April 11, 2025, as the Magistrate’s Order³ and Magistrate’s
 12 Second Order⁴ require both the payment of monetary sanctions and self-reporting before the Magistrate’s
 13 Second Order concludes briefing on May 5, 2025.⁵
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15 I. INTRODUCTION AND RELEVANT FACTS

16 Plaintiff Koji IP, LLC (“Koji”) sued Defendant Renesas Electronics America, Inc., (“Renesas”)
 17 alleging that Renesas infringes U.S. Pat. Nos. 10,790,703 (“the ’703 Patent”), entitled “Smart Wireless
 18 Power Transfer Between Devices” (“Patent-in-Suit”) in the District of Colorado on June 30, 2023.⁶ The
 19 claim chart used with the original complaint was prepared through the collaboration of Simon Sunatori,
 20 William Ramey, and Carlos Gorrichategui.⁷
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22 Renesas’s in-house counsel and director of intellectual property, Mr. Masaki Yabe, directly
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¹ Doc. No. 42.

² Doc. No. 43 (reporting requirements are Doc. No. 34 at 35-36 (at items 5-8)).

³ Doc. No. 42 at 37-44.

⁴ Doc. No. 43 at 34-36.

⁵ Doc. No. 43 at 35:2-3.

⁶ Ramey Decl. at ¶4.

⁷ Ramey Decl. at ¶24; Declaration of Carlos Gorrichategui, Ph.D (“Gorrichategui Decl.”) at ¶¶2-4, 14.

1 contacted Mr. Ramey On July 3, 2023 about the lawsuit filed a few days earlier. Mr. Yabe offered to
2 discuss a royalty rate for the alleged infringement and requested an extension, which was freely offered.
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4 On July 11, 2023, Mr. Yabe agreed to waive service of the summons.⁸ On July 20, 2023, Jason Crotty
5 appeared as counsel for Renesas and opened a dialogue with Ramey LLP. Mr. Crotty asked that the suit
6 be dismissed because there was low sales volume, Renesas disagreed with infringement, and stated venue
7 was improperly based on a distributor.⁹ Koji immediately began communicating with Defendant about
8 the case, including both infringement and Defendant's contention that venue was improper.¹⁰ Koji
9 dismissed its lawsuit on September 6, 2023 without burdening the court or Renesas with a venue fight.¹¹
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12 On November 8, 2023, Koji refiled the lawsuit in the Northern District of California.¹² The claim
13 charts used were those previously prepared¹³ and where Renesas' non-infringement position had
14 been considered.¹⁴ Koji immediately began discussions with counsel for Renesas about additional
15 accused products,¹⁵ Renesas maintained that the sales volume of the accused product was very low.¹⁶
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17 Koji and its counsel looked for additional products from Defendant.¹⁷ However, to not burden Renesas,
18 on January 30, 2024, Koji agreed to dismiss without prejudice its lawsuit, to which Renesas agreed.¹⁸
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20 The lawsuit was dismissed due to the low sales volume. Defendant had not filed any motions in the case
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25 ⁸ Ex. A, July 3, 2023 e-mail chain (e-mail at the end of the chain), to the Ramey Decl.; Ramey Decl at
26 ¶5.

27 ⁹ Ex. B, July 20, 2023 e-mail chain (July 18, 2023 e-mail from Crotty to Kubiak), to the Ramey Decl.;
28 Ramey Decl. at ¶6.

¹⁰ Ex. B, July 20, 2023 e-mail chain; Ramey Decl. at ¶7.

¹¹ Ramey Decl. at ¶10.

¹² Ex. G, Doc. No. 1 at 3 from Cause No. 5:23-cv-5750, to the Ramey Decl.

¹³ Ramey Decl. at ¶¶11, 14, 27, 28; *Compare* Doc. No. 1-2 in 5:23-cv-05752 to Doc. No. 1-2 at 1:23-cv-01674.

¹⁴ Ex. E, claim chart rebuttal attached to August 1, 2023 e-mail chain.

¹⁵ Ex. H, January 23, 2024 e-mail chain, to the Ramey Decl.; Ramey Decl. at ¶12.

¹⁶ Ramey Decl. at ¶12.

¹⁷ Ramey Decl. at ¶11, 14; Gorrichategui Decl. at ¶¶9-11, 14.

¹⁸ Ex. J, January 30, 2024 e-mail chain, to the Ramey Decl.

1 or otherwise appeared or responded.¹⁹

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3 Shortly thereafter, William Ramey and his client's representative, Carlos Gorrichategui, Ph.D,
4 discussed whether the sales of a newly charted product that was located had been included in the prior
5 numbers and came to the conclusion it was not based on what had been provided to Renesas in the prior
6 lawsuit. Accordingly, Koji asked Ramey LLP to file a new lawsuit based on the newly charted product.²⁰
7
8 On May 22, 2024, Koji filed the new lawsuit, accusing the entirely different Renesas system.²¹ Renesas's
9 lawyer responded by letter on May 31, 2024, that Koji's lawsuit was foreclosed as it had been dismissed
10 twice.²² The letter asked that the lawsuit be promptly dismissed. After further discussions with Renesas's
11 counsel, the lawsuit was dismissed with prejudice on June 12, 2024.²³ Renesas had not entered an
12 appearance or filed any documents in the case. On June 26, 2024, Renesas filed its Motion for Attorneys'
13 Fees.²⁴ The Court set a hearing on August 22, 2024, on Renesas's Motion for Attorneys' Fees.²⁵ On
14 August 29, 2024, the Court issued an Order to Show Cause to Mr. Ramey, Mr. Kubiak and Ms. Kalra
15 ("OSC").²⁶ On September 12, 2024, Mr. Ramey, Mr. Kubiak and Ms. Kalra responded to the Court's
16 OSC.²⁷ On September 19, 2024, the Court held a hearing on the OSC.²⁸ On March 26, 2025, the Court
17 issued the Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers ("Magistrate's
18 Order")(Doc. No. 42).²⁹ On March 31, 2025, the Court issued the Order Granting Motion for Attorneys'
19 Fees and Sanctions ("Magistrate's Second Order")(Doc. No. 43).³⁰

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26 ¹⁹ Ramey Decl. at ¶13.

27 ²⁰ Ramey Decl. at ¶14; Gorrichategui Decl. at ¶11.

28 ²¹ Ex. K, Doc. No. 1-2, to the Ramey Decl.

²² Ex. L, Letter to Ramey from Crotty at 1, to the Ramey Decl.; Ramey Decl. at ¶15.

²³ Doc. No. 12.

²⁴ Doc. No. 18.

²⁵ Doc. No. 22.

²⁶ Doc. No. 27.

²⁷ Doc. No. 28.

²⁸ Doc. Nol. 30.

²⁹ Doc. No. 42.

³⁰ Doc. No. 43.

II. APPLICABLE LEGAL STANDARDS

In considering a motion to stay pending appeal, the factors regulating the issuance of a stay are:

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.”³¹ The first two factors are the “most critical.”³²

For the first factor, the Ninth Circuit Court of Appeals has characterized a “strong showing” to include “reasonable probability,” “fair prospect,” “substantial case on the merits,” and “serious legal questions ... raised.”³³ The descriptions are largely interchangeable and require the movant to show that “at a minimum ... that there is a substantial case for relief on the merits.”³⁴ In regards to the second factor, the movant must demonstrate that there is a probability that he or she will suffer an irreparable injury if the stay is not granted.³⁵ Regardless of the possible irreparable harm, a stay is not a matter of right rather, a stay is “an exercise of judicial discretion” and the “propriety of its issue is dependent upon the circumstances of the particular case.”³⁶ “The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.”³⁷

III. ARGUMENT

A stay of enforcement of the monetary sanction issued in the Magistrate’s Order³⁸ and staying the reporting/CLE requirements in the Magistrate’s Order³⁹ and staying the reporting/CLE requirements

³¹ *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *see also Nken v. Holder*, 556 U.S. 418, 433 (2009).

³² *Nken*, 556 U.S. at 434.

³³ *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir.2011).

³⁴ *Lair*, 697 F.3d at 1204; *Leiva-Perez*, 640 F.3d at 967–68.

³⁵ *Lair*, 697 F.3d at 1215; *Leiva-Perez*, 640 F.3d at 969.

³⁶ *Nken*, 556 U.S. at 433–34 (2009); *Lair*, 697 F.3d at 1203.

³⁷ *Id.*

³⁸ Doc. No. 42 at 38:24-43:2 (items 5-8).

³⁹ Doc. No. 42 at 37:22-44:7 (items 1-4 and 9-11).

1 in the Magistrate's Second Order⁴⁰ is warranted because of irreparable harm the Sanctioned Parties will
 2 suffer if required during appeal to self-report the sanctions and the Sanctioned Parties' likelihood of
 3 success reversing the Rule 11 monetary sanction.
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5 **A. The Sanctioned Parties are Likely to Prevail on Appeal**

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 7 **1. Monetary Sanctions Under Rule 11 Are Not Allowed Because the OSC Issued After**
 8 **the Case Was Dismissed**

9 The Sanctioned Parties are likely to prevail on their appeal of the monetary sanctions issued by
 10 the Magistrate's Order under Rule 11 because a monetary sanction is specifically excluded by Rule 11:
 11

12 **(c) Sanctions.**

13 ...

14 **(5) Limitations on Monetary Sanctions.** The court *must not impose a monetary sanction:*

15 **(A)** ...; or

16 **(B)** on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary
 17 dismissal or settlement of the claims made by or against the party that is, or whose
 18 attorneys are, to be sanctioned.⁴¹

19 In the present case, Koji dismissed the lawsuit on June 12, 2024.⁴² The Order to Show Cause was not
 20 issued until August 27, 2024.⁴³ Therefore, the literal language of Rule 11 does not allow the Court to
 21 impose a monetary sanction.⁴⁴ Thus, the Magistrate's Order is in error for issuing a monetary sanction
 22 under Rule 11. Likewise, the Court cannot resort to an inherent power sanction to do what it is prohibited
 23 from doing under the rules.⁴⁵ Therefore, the Sanctioned Parties are likely to prevail on their appeal of
 24 the Rule 11 monetary sanction issued by the Court in Doc. No. 42.
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26 **2. There Can be No Rule 11 Violation When the Filing is Allowed Under the Law**
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⁴⁰ Doc. No. 43 at 35:4-36:24 (items 4-8).

⁴¹ Fed. R. Civ. P. 11 (emphasis added).

⁴² Doc. No. 12.

⁴³ Doc. No. 27.

⁴⁴ Fed. R. Civ. P. 11(c)(5)(B).

⁴⁵ See, e.g., *Chambers v. NASCO, Inc.*, 501 U.S. 32, 47, 111 S. Ct. 2123, 2134, 115 L. Ed. 2d 27 (1991).

1 The Sanctioned Parties are likely to prevail on reversing the Magistrate's Order's finding a
2 violation of Rule 11.⁴⁶ The Magistrate's Order misapplies the law around a Rule 41(a) dismissal. The
3 case of *Com. Space Mgmt. Co. v. Boeing Co.*⁴⁷ makes clear that the determination of whether a third
4 cause of action is allowable can only be made once a third cause of action is filed.⁴⁸ The Magistrate's
5 Order incorrectly begins with the premise that no third cause of action was permissible to file at all.
6 The Colorado action was dismissed, after consulting with Renesas Electronics America, Inc.
7 ("Renesas"), for venue and was then re-filed with a different venue assertion in the Northern District
8 of California as *Koji IP, LLC v. Renesas Electronics America, Inc.* ("Koji II"), No. 3:23-cv-05752-LJC
9 (N.D. Cal. Nov. 8, 2023), ECF No. 1. In filing Koji II, Koji changed its claim related to venue.⁴⁹
10 However, based on low sales volumes the case was dismissed.⁵⁰ After further diligence on a new
11 product that was not accused in Koji II, Koji filed a new Complaint, *Koji IP, LLC v. Renesas Electronics*
12 *America, Inc.* ("Koji III"), No. 5:24-cv-03089 (N.D. Cal. May 22, 2024), ECF No. 1.⁵¹

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18 The Ninth Circuit has recognized cases where exceptions have been found to the two-dismissal
19 rule.⁵² In Koji I, the defendant argued the case lacked venue. Rather than wasting resources fighting
20 a venue challenge, the case was dismissed. At the time of dismissal, Defendant had already filed a
21 motion to dismiss based on venue that attached evidence that it did not have a regular and established
22 place of business in Colorado.⁵³ Based on that evidence, the case was likely going to be dismissed
23 even though Defendant advertised it had an office in Denver. The same patent infringement claims
24 from the Colorado case were refiled in this District as Koji II. Due to low sales, that case was soon
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⁴⁶ Doc. No. 42 at 14-23.

⁴⁷ 193 F.3d 1074, 1080 (9th Cir. 1999).

⁴⁸ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

⁴⁹ Doc. No. 24-2 at ¶¶14-15; *In re Hall, Bayou Associates Ltd.*, 939 F.2d 802, 806 (9th Cir. 1991)

⁵⁰ Doc. No. 28-2 at pg 2cc from Koji II

⁵¹ Doc. No. 24-2 at ¶¶14-15.

⁵² *Lake at Las Vegas Invs. Grp., Inc. v. Pac. Malibu Dev. Corp.*, 933 F.2d 724, 727 (9th Cir. 1991).

⁵³ Doc. No. 24-8; Declaration of Carlos Gorrichategui ("Gorrichategui Decl.") at ¶5.

1 dismissed.⁵⁴ After further review, Koji III was filed on a different Renesas product.⁵⁵ Koji III is not
2 the same case as Koji II, the prior California case, as Koji II accused a different product, thus a different
3 claim. Also, Koji II differed from the Colorado case, Koji I, as Koji II was in a different venue from
4 Koji I. The Ninth Circuit uses a “transactional approach for purposes of the two-dismissal rule and
5 holds that a subsequent claim is the same as a previously dismissed claim if it arises from the same set
6 of facts as the first action and the claim could have been or was raised in the preceding action.”⁵⁶ The
7 accused product in the present case is different than the accused product in the prior California case,
8 Koji II, the facts and thus the claim, differs and therefore the two dismissal rule would not apply, i.e. a
9 negative ruling, such as a finding of noninfringement in the first California action would not be res
10 judicata to the second California action as the second action accused a different product. It was error
11 for the Magistrate’s Order to find bad faith based on the filing of Koji III.⁵⁷ There can be no
12 abuse of the judicial system if the filing is warranted as it is here.⁵⁸ Further, the Magistrate’s Order
13 erred by analyzing the subjective intent of the Sanctioned Parties as to whether they had case law to
14 support what they did “[b]ecause the frivolousness prong of Rule 11 is measured by *objective*
15 reasonableness, [citation omitted], whether [a party] actually relied on” the cases which show its claims
16 aren’t frivolous is irrelevant. [citation omitted] The same rule must apply to the factual basis for a
17 claim.⁵⁹ The commentary on Rule 11 emphasizes that the Rule “is not intended to chill an attorney’s
18 enthusiasm or creativity in pursuing factual or legal theories.”⁶⁰ Therefore, it is likely the sanctioned
19 Parties will reverse the Rule 11 sanction.
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⁵⁴ Doc. No. 24-2 at ¶¶12-15; Gorrichategui Decl. at ¶¶6-7.

⁵⁵ Doc. No. 24-2 at ¶¶5-15.

⁵⁶ *Rose Ct., LLC v. Select Portfolio Servicing, Inc.*, 119 F.4th 679, 686 (9th Cir. 2024).

⁵⁷ Doc. No. 42 at 24-25.

⁵⁸ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

⁵⁹ *In re Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 434 (9th Cir. 1996)

⁶⁰ *Operating Eng’rs Pension Tr. v. A-C Co.*, 859 F.2d 1336, 1344 (9th Cir. 1988) *citing* Fed.R.Civ.P. 11, Notes of Advisory Committee on Rules.

3. Inherent Power Sanctions are Improper as there is No Bad Faith

To impose sanctions under its inherent authority or potentially award attorneys' fees under Rule 41(d), a court must "make an explicit finding that counsel's conduct constituted or was tantamount to bad faith."⁶¹ The Magistrate's Order erred when it found bad faith of the Sanctioned Parties filing the Third Action, Koji III,⁶² as caselaw specifically allows the filing of the Third Action⁶³ and without sanction provided a persuasive explanation is provided as to why it was filed.⁶⁴ Further, the Ninth Circuit recognizes exceptions to the two dismissal rule that should have precluded the imposition of sanctions as the Sanctioned Parties had a reasonable argument as to why they could file the third lawsuit.⁶⁵ Mr. Ramey believed the dismissal based on venue of the first case was a persuasive explanation for refiling the case.⁶⁶ Additionally, an entirely new product was accused of infringement and therefore the facts and claims are not the same.⁶⁷ The law is clear that filing even the same lawsuit three times is not automatically barred.⁶⁸ It was error for the Magistrate's Order to find that bad faith was shown through not investigating Rule 41 and otherwise filing Koji III as there was a good faith basis.⁶⁹ Therefore, it is likely the inherent power sanctions will be reversed.

4. The Sanctioned Parties Were Not Practicing Law in California

The Sanctioned Parties are likely to prevail that they were not practicing law in California and therefore Ms. Kalra was not aiding and abetting and thus there is no violation of the Court's authority under the Civil Local Rules. Since beginning to work with the firm, Ms. Kalra was the lead attorney

⁶¹ *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1131 (9th Cir. 2002).

⁶² Doc. No. 42 at 24.

⁶³ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

⁶⁴ *Milkcrate Athletics, Inc.*, 619 F. Supp. 3d at 1025.

⁶⁵ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

⁶⁶ Ex. A, Hearing Transcript at 42:15-43:21; Doc. No. 24-2 at ¶¶14-18.

⁶⁷ Doc. No. 24-2 at ¶¶14-15.

⁶⁸ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686; *Milkcrate Athletics, Inc.*, 619 F. Supp. 3d at 1025; Doc. No. 24-2 at ¶¶5-15.

⁶⁹ Ex. A at 45:6-17; Doc. No. 28-2 at ¶¶17, 27-28.

1 in every case filed in California.⁷⁰ Therefore, a licensed California attorney was always lead on the
2 case and responsible for all filings. As a preliminary matter, the Sanctioned Parties note that each
3 firmly believed that what they were doing was well within the letter of the law, but more importantly,
4 the Sanctioned Parties instantly modified their behavior and discontinued the practices that the Court
5 said were improper.⁷¹ As such, the conduct is not likely to be repeated and the conduct was not thought
6 to violate any ethical rule or rule of practice at the time it occurred.⁷² As the actions were not intentional
7 violations, if a sanction is determined appropriate, a written reprimand is more appropriate rather than
8 the Magistrate's Order issuing sanctions that quite likely will be career altering. In fact, Ms. Kalra has
9 resigned from her new law firm over the Magistrate's Order.⁷³ As well, Mr. Ramey has been censored
10 by Gene Quinn of IP Watchdog at least in part because of the Magistrate's Order.⁷⁴ IP Watchdog is
11 removing previously published articles from Mr. Ramey and scrubbing his profile from the website.⁷⁵
12 Damage has already been done by the Magistrate's Order.

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Caselaw provides that the State Supreme Court in California views that for conduct to be the
practice of law in California it must entail sufficient contact with a *California* client to render the nature
of the legal service a clear legal representation and the nature of the unlicensed lawyer's activities in
the state must be examined.⁷⁶ Mere fortuitous or attenuated contacts will not sustain a finding that the
unlicensed lawyer practiced law in California. The primary inquiry turns on whether the unlicensed
lawyer engaged in sufficient activities or created a continuing relationship with a *California* client that
included legal duties and obligations.⁷⁷ The Ninth Circuit went on to distinguish the facts from the

⁷⁰ Ex. A at 10:13-22; 31:16-34:9.

⁷¹ Doc. No. 28-1 at ¶¶14, 20-23; Doc. No. 28-2 at ¶¶19-23; and, Doc. No. 28-15 at ¶¶10-14.

⁷² Doc. No. 28-1 at ¶¶ 20-23; Doc. No. 28-2 at ¶¶20-23; and, Doc. No. 28-15 at ¶¶11-14.

⁷³ Declaration of Susan S.Q. Kalra ("Kalra Decl.") at ¶3.

⁷⁴ Ex. E, Ramey Decl. at ¶10.

⁷⁵ Putting aside likely FTC violation, the journalistic integrity of IP Watchdog is highly questionable.

⁷⁶ *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 821–23 (9th Cir. 2009).

⁷⁷ *Winterrowd*, 556 F.3d at 821–23.

1 California Supreme Court case finding that the legal services of a lawyer wholly performed in a state
2 other than California were not the unauthorized practice of law as the legal services had more to do
3 with an issue of federal ERISA law than state law.⁷⁸ Likewise, the Court in *Winterrowd* further found
4 that an out of state lawyer was not practicing law in California because the arrangement the out of state
5 lawyer had with the in state lawyer was more like a partnership, which is exactly the situation of the
6 present case, Ms. Kalra was the California lawyer on the case and responsible as lead attorney.⁷⁹ For
7 all practical purposes, the arrangement between Mr. Ramey, Mr. Kubiak and Ms. Kalra is analogous to
8 a partnership for the prosecution of the patent infringement claim against the Defendant which is similar
9 to the type of partnership found in *Winterrowd*.⁸⁰ The Ninth Circuit found it very relevant if one of the
10 lawyers performing the work is licensed in California.⁸¹

11 The Ninth Circuit went further and held that state law was not determinative of whether a lawyer
12 practicing in federal court is authorized to practice and recognized that an out of state lawyer could
13 always seek admission by *pro hac vice* admission.⁸² The Magistrate's Order did find that each of Mr.
14 Ramey and Mr. Kubiak were regularly practicing law in California but without any specificity as to
15 what acts constituted the practice of law in California and thus in error.⁸³ That Mr. Ramey and Mr.
16 Kubiak appeared on pleadings with the modifier "*pro hac vice anticipated*" or the like is precisely the
17 type of attenuated contact that the California Supreme Court said would not support that either was
18 practicing law in California.⁸⁴ In fact, the modifier makes it very clear that both are not licensed.

78 *Winterrowd*, 556 F.3d at 821–22.

79 *Id.*

80 *See, e.g., Id.* at 821–23.

81 *See, e.g., Id.* at 822.

82 *See, e.g., Id.* at 823.

83 Doc. No. 42 at 32–33.

84 *See, e.g., Winterrowd*, 556 F.3d at 821–23.

1 The Magistrate's Order commits error by finding that Mr. Ramey and Mr. Kubiak were engaged
2 in the unauthorized practice of law and that Ms. Kalra aided and abetted that practice as the contacts
3 are attenuated. The Sanctioned Parties formed a partnership where Ms. Kalra handled the state law
4 matters and Mr. Ramey and Mr. Kubiak delivered highly specialized advice on federal patent
5 litigation.⁸⁵ Further, much like in *Winterrowd*, if required, there is no reason Mr. Ramey or Mr Kubiak
6 would not be admitted *pro hac vice*. Both are members in good standing with the Texas State Bar⁸⁶
7 and each have over 25 years practice.⁸⁷ As in *Spanos*, there has been "no suggestion of any
8 unlaywerlike conduct on his part," prior to the Magistrate's Order.⁸⁸ While the Magistrate's Order does
9 make a finding that Mr Ramey and Mr. Kubiak are regularly engaged in the practice of law in
10 California,⁸⁹ which might disqualify each from *pro hac vice* admission under Civil L.R. 11-3(c), the
11 record evidence is believed to show only attenuated contact on the highly specialized area of patent
12 litigation. The evidence of record is that a California lawyer was lead counsel for all cases, except for
13 the three transferred cases discussed above that were very short lived and in the process of being
14 dismissed at the time of transfer.⁹⁰ Moreover, to the extent the Magistrate's Order seeks to limit Koji
15 from using any of the Ramey Firm lawyers, the privileges and immunities clause of the U.S.
16 Constitution prohibits a state from denying a citizen with a federal claim or defense from engaging an
17 out-of-state lawyer to collaborate with an in-state lawyer and give legal advice concerning it within the
18 state.⁹¹ For the reasons provided herein, The Sanctioned Parties are likely to prevail and reverse
19 Magistrate's Order's finding that Mr. Ramey and Mr. Kubiak were engaged in the unauthorized
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⁸⁵ See, e.g., *Winterrowd*, 556 F.3d at 821–23.

⁸⁶ Ramey Decl. at ¶8.

⁸⁷ Ramey Decl. at ¶9.

⁸⁸ *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 168 (2d Cir. 1966).

⁸⁹ Doc. No. 42 at 28.

⁹⁰ Ramey Decl. at ¶¶5-7.

⁹¹ *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 170 (2d Cir. 1966).

1 practice of law and that Ms. Kalra aided and abetted that practice and that each should be sanctioned
2 pursuant to the Court's inherent authority, the Court's authority under the Civil Local Rules, and the
3 Court's authority under Rule 11 and applicable law.⁹²

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5 **5. If a Sanction is Deemed Warranted, a Less Severe Sanction is Appropriate**

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7 The Sanctioned Parties object to the sanctions issued as not being proper.⁹³ Sanctions imposed
8 should be limited to what is "sufficient to deter repetition of such conduct or comparable conduct by
9 others similarly situated."⁹⁴ If a violation is found and a sanction deemed appropriate, a more
10 appropriate sanction would be admonishment of the conduct as it has already stopped and was not done
11 to circumvent any rule. The evidence of record is that the procedure used by the Ramey Firm was
12 believed to be in compliance but that immediately after the August 22, 2024, hearing, the process was
13 changed.⁹⁵ As such, there is little chance the conduct repeats. It is error for the Magistrate's Order to
14 require the Sanctioned Parties self-report the sanctions imposed on them and engage in CLE study.⁹⁶
15 It is further error for the Magistrate's Order to require the Sanctioned Parties further self-report.⁹⁷ It is
16 further error for the Magistrate's Order to require Mr. Ramey and Mr. Kubiak "to each complete at
17 least two hours of in-person, California bar-approved CLE classes on Legal Ethics and/or Professional
18 Conduct, and at least an additional two hours of in-person, California bar-approved CLE on Law
19 Practice Management."⁹⁸ These sanctions are severe and unwarranted, potentially career ending, and
20 unreasonable as to the length of 5 years. The Sanctioned Parties have already discontinued the practice
21 and it is not likely to be repeated.⁹⁹
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⁹² Doc. No. 42 at 33.

⁹³ Doc. No. 42 at 37-44.

⁹⁴ Fed.R.Civ.P. 11(b)(2)(A).

⁹⁵ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

⁹⁶ Doc. No. 42 at 38.

⁹⁷ Doc. No. 42 at 38.

⁹⁸ Doc. No. 42 at 43.

⁹⁹ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

1 It is error for the Magistrate's Second Order to require the Sanctioned Parties to complete CLE.¹⁰⁰
 2
 3 It is further error for the Magistrate's Second Order to require the Sanctioned Parties each to self-report
 4 the sanctions imposed prior to appeal.¹⁰¹ It is further error for the Magistrate's Second Order to require
 5 the Sanctioned Parties to self-report.¹⁰² These sanctions are severe and unwarranted, potentially career
 6 ending, and unreasonable as to the next 5 years. The Sanctioned Parties have already discontinued the
 7 practice and it is not likely to be repeated.¹⁰³ A stay for any self-reporting, and other sanctions, should
 8 be afforded the Sanctioned Parties pending any appeal as once reported the sanctions cannot be
 9 undone.¹⁰⁴ The harm will be immediate and severe.¹⁰⁵

12 **B. The Sanctioned Parties will be Irreparably Harmed**

14 These sanctions are severe and unwarranted, potentially career ending, and unreasonable as to the
 15 next 5 years. The Sanctioned Parties have already discontinued the practice and it is not likely to be
 16 repeated.¹⁰⁶ A stay for any self-reporting, and other sanctions, should be afforded the Sanctioned Parties
 17 pending any appeal as once reported the sanctions cannot be undone.¹⁰⁷ The harm will be immediate and
 18 severe.¹⁰⁸ Once reported to bar organizations, even if successful on appeal, the Sanctioned parties will
 19 not be able to unring that bell. The harm is immediate and substantial.

24 ¹⁰⁰ Doc. No. 43 at 35.

25 ¹⁰¹ Doc. No. 42 at 38.

26 ¹⁰² Doc. No. 43 at 36.

27 ¹⁰³ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

28 ¹⁰⁴ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *1-2 (D. Idaho Jan. 7, 2015) citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); see also *Nken v. Holder*, 556 U.S. 418, 433 (2009).

¹⁰⁵ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *2 (D. Idaho Jan. 7, 2015)

¹⁰⁶ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

¹⁰⁷ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *1-2 (D. Idaho Jan. 7, 2015) citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); see also *Nken v. Holder*, 556 U.S. 418, 433 (2009).

¹⁰⁸ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *2 (D. Idaho Jan. 7, 2015)

C. The Requested Stay Will Not Injure Any Party

The requested stay is not a request to stay any payment to Defendant. No party will be injured by the requested stay.

D. The Public Interest Will Not Be Adversely Affected

While the public certainly has an interest in lawyers performing their duties properly, the public interest is not served by permanently damaging the Sanctioned Parties' careers with orders that are capable of modification, especially when no harm will come to Defendant.

E. The Four Factors Weigh Heavily in Favor of Staying Execution

All factors support stay of enforcement of the monetary sanction issued in the Magistrate's Order,¹⁰⁹ a stay of enforcement of the reporting/CLE requirements in the Magistrate's Order¹¹⁰ and a stay of the reporting/CLE requirements in the Magistrate's Second Order¹¹¹ pending the appeal. The irreparable harm absent a stay is significant and the Sanctioned Parties have shown the likelihood of prevailing on appeal.

IV. CONCLUSION

Koji IP, LLC ("Koji"), William P. Ramey, III ("Mr. Ramey"), Susan S.Q. Kalra ("Ms. Kalra") and Jeffrey E. Kubiak ("Mr. Kubiak") (collectively, "Sanctioned Parties") respectfully pray this Court enter an order staying enforcement of the Magistrate's Order and the Reporting/CLE requirements of the Magistrate's Second Order during the pendency of the appeals.

Respectfully submitted,

/s/ Susan Kalra
Susan Kalra (SBN 167940)
4140 Innovator Drive, Apt. 4201
Sacramento, CA 95834
(650) 678-4644

¹⁰⁹ Doc. No. 42 at 38:24-43:2 (items 5-8).

¹¹⁰ Doc. No. 42 at 37:22-44:7 (items 1-4 and 9-11).

¹¹¹ Doc. No. 43 at 35:4-36:24 (items 4-8).

Email: sqklaw@gmail.com

*Attorneys for Koji IP, LLC, William P. Ramey, III,
Susan S. Q. Kalra and Jeffrey E. Kubiak*

CERTIFICATE OF CONFERENCE

I confirm that I conferred with counsel for Defendant on October 8, 2024, via e-mail. Defendant takes no position with regards to the stay of the Order of Doc. No. 42 and is still deciding its position with regard to Doc. No. 43.

/s/ William P. Ramey, III

William P. Ramey, III

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all counsel of record who have appeared in this case are being served today, with a copy of the foregoing via the Court's CM/ECF system.

/s/ Susan S. Q. Kalra

Susan S. Q. Kalra

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 KOJI IP, LLC,
12 Plaintiff,
13 v.
14 RENESAS ELECTRONICS AMERICA,
15 INC.,
16 Defendant.

Case No.: 3:24-cv-03089-PHK

17 **DECLARATION OF WILLIAM P.**
18 **RAMEY, III**

19 I, William Ramey, declare as follows:

20 1. My name is William P. Ramey, III. I am over the age of 21. I have personal knowledge of the
21 facts contained herein, which are true and correct. If called as a witness, I could competently testify to
22 these statements.

23 2. I am licensed to practice law in the state of Texas and am an attorney with the law firm of Ramey
24 LLP and I am admitted pro hac vice in this case. I represent the Plaintiff in the above-captioned lawsuit.

25 3. Exhibit A is a true and correct copy of the hearing transcript from the September 24, 2024
26 hearing on the Magistrate Court's Order to Show Cause.
27
28

1 4. Exhibit B is a chart listing the 56 cases as identified by the Magistrate Court in its Order
2 Regrading OSC and Imposing Sanctions on Ramey Firm Lawyers at pages 4 through 8.¹ Each of case
3 1-7, 9-21, 43, 50, and 53-56 were transferred to California. Each of cases 8, 22-42, 44-49, 51 and 52
4 were filed in California for reasons of venue. None of the clients in any of the 56 cases were organized
5 in California or domiciled in California.
6

7 5. Case 6 from Exhibit B was transferred to California from New York. A Case Management
8 Conference document was jointly filed by Plaintiff and Defendant and then the court dismissed the
9 complaint based on a motion to dismiss filed while the case was in New York.

10 6. Case 7 from Exhibit B was transferred from Texas to California. My firm never appeared in the
11 case and did not even respond to a motion to stay filed by Google.
12

13 7. Case 50 from exhibit B was transferred from Texas to California. However, the case was settled
14 by a third party at the time of the transfer. Defendant filed two stipulations that included my signature,
15 a stipulation to extend the time for the defendant to answer and a stipulation to dismiss the case.
16

17 8. Exhibit C is a true and correct copy of a printout on April 5, 2025, indicating my eligibility to
18 practice law in the State of Texas.

19 9. Exhibit D is a true and correct copy of a printout on April 5, 2025, indicating Mr. Kubiak's
20 eligibility to practice law in the State of Texas.

21 10. Exhibit E is a true and correct copy of an e-mail message I received from Gene Quinn on April
22 4, 2025, wherein he is censoring me at least in part for the Magistrate's Order.
23

24 11. Exhibit F is a case report reflecting the cases upon which Jeffrey E. Kubiak appeared.

25 12. Exhibit G is a true and correct copy of Doc. No. 88 from 3:20-cv-000483-VC.

26 13. Exhibit H is a true and correct copy of Doc. No. 91 from 3:20-cv-000483-VC.
27

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¹ Doc. No. 42 at 4-8.

1 14. Exhibit I is a true and correct copy of Doc. No. 63 from 4:23-cv-01852-JST.

2 15. Exhibit J is a true and correct copy of Doc. No. 16 from 5:21-cv-07812-EJD.

3 16. Exhibit K is a true and correct copy of Doc. No. 20 from 5:21-cv-07812-EJD.

4 17. Exhibit L is a true and correct copy of a granted pro hac vice for me in 3-17-cv-02177-WHA.

5 18. Exhibit B to this response is a true and accurate listing of all 56 cases identified by the
6 Magistrate's Order from the Northern District of California ("NDCA"), providing columns for (1) Case
7 Number 1 – 56; (2) Case name; (3) Case Filing No.; (4) Filing Date; (5) Counsel for Plaintiff and
8 Defendant; (6) whether a lawyer not licensed in CA was on pleadings; (7) whether the identified "*pro*
9 *hac vice*" or similar modifier was used; (8) whether a "*pro hac vice*" application was filed in the case
10 for a Ramey Firm lawyer; (9) Whether case was transferred from another District to NDCA and the
11 date; and, (10) the date the case was closed.
12
13

14 19. Cases 8, 22-42, 44-49, 51 and 52 were all filed in California with a licensed California lawyer
15 as lead counsel. Non-licensed California lawyers were also on one or more pleadings using the identifier
16 "*pro hac vice anticipated*" or something very similar. The practice was thought to conform to the local
17 rules. However, after the August 22, 2024, hearing in this matter, the practice was stopped and is not
18 going to be repeated. The practice was not thought to be the unauthorized practice of law because the
19 use of the qualifying language is a clear statement that the lawyer is not licensed in California. If the
20 cases progressed, a motion *pro hac vice* was filed, as in cases 22-24, 39, 49, 51, and 52. In all cases that
21 originated in California, a California lawyer was in charge as lead counsel. Any unlicensed California
22 lawyers were providing case support regarding the highly specialized nature of patent litigation and not
23 on issues of California state law. None of the clients represented in any of the 56 cases are organized in
24 California or otherwise domiciled therein. The cases were filed in California because venue in patent
25 infringement cases is restrictive and venue was proper in California.
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1 20. Cases 1-7, 9-21, 43, 50, and 53-56 were all transferred to California from another court. Non-
2 licensed California lawyers were also on one or more pleadings using the identifier “*pro hac vice*
3 *anticipated*” or something very similar. The practice was thought to conform to the local rules.
4 However, after the August 22, 2024, hearing, the practice was stopped and is not going to be repeated.
5 The practice was not thought to be the unauthorized practice of law because the use of the qualifying
6 language is a clear statement that the lawyer is not licensed in California. If the cases progressed, a
7 motion *pro hac vice* was filed, as in cases 2, 9, 10, 53-56.
8

9 21. Transferred case numbers 6, 7, and 50 do not provide for a lead California lawyer. In case 6, a
10 Case Management Conference document was filed by Defendant that included Mr. Ramey’s signature
11 block and then the case was dismissed. Case 6 lasted about 5 months in this District and there was no
12 activity beyond the court required CMC. In Case 7, the case was transferred from the Western District
13 of Texas, but counsel for Plaintiff did not appear in the case or file any document, not even an opposition
14 to the motion to stay. For case 50, no document was filed by Plaintiff and thus no appearance was made.
15 Defendant’s counsel filed two stipulations with Mr. Ramey’s signature block, one agreeing to an
16 extension to answer and one agreeing to a dismissal due to settlement. Case 50 lasted about one month
17 in this District and in fact was in the process of being settled by a third party during the transfer process.
18 Cases 54-56 were consolidated with John Thomas as lead counsel and Mr. Ramey did in fact file a *pro*
19 *hac vice* in case 54. As the cases were consolidated, it was not believed that a *pro hac vice* was required
20 in the other two cases. For all other cases, any unlicensed California lawyer was providing case support
21 regarding the highly specialized nature of patent litigation and not on issues of California state law.
22 None of the clients represented are organized in California or otherwise domiciled therein. The cases
23 were transferred to California and not filed there.
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1 I declare under penalty of perjury under the laws of the United States of America that the foregoing

2
3 is true and correct. Executed on April 7, 2025.



4
5 William P. Ramey, III

BOIES SCHILLER FLEXNER LLP

Scott E. Gant (*appearing pro hac vice*)

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Attorney for Defendant Dreamland Baby Co.

(Additional counsel listed on signature block)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

*IN RE DREAMLAND BABY CO. WEIGHTED
SLEEP PRODUCTS LITIGATION,*

This Document Relates To:
All Actions

Master File No. 3:24-CV-02996-CRB

**STIPULATION AND [PROPOSED]
ORDER TO AMEND SCHEDULE**

Judge: Hon. Charles R. Breyer

Action Filed: May 17, 2024

1 Defendant Dreamland Baby Co. (“Defendant”) and Plaintiffs Victoria Monsch, Megan
2 Fehrenbach, Tuliisa Miller, Amy Alvarez, Johannah Harrington, and Haley Muse (collectively,
3 “Plaintiffs”) (together, the “Parties”), through their respective counsel, stipulate as follows:

4 WHEREAS, the upcoming deadline for Defendant to respond to the Consolidated
5 Complaint is January 10, 2025 pursuant to the Court’s Order at ECF 49;

6 WHEREAS, the deadline for Plaintiffs to oppose a motion to dismiss the Consolidated
7 Complaint is February 28, 2025, pursuant to the Court’s Order at ECF 49;

8 WHEREAS, scheduling conflicts among counsel have made it challenging for the Parties
9 to meet the above deadlines;

10 WHEREAS, the Parties have conferred and propose, subject to Court approval, to extend
11 the deadline for Defendant to respond to the Consolidated Complaint to February 7, 2025 and to
12 extend the deadline for Plaintiffs to oppose a motion to dismiss the Consolidated Complaint to
13 March 28, 2025;

14 NOW THEREFORE, the Parties through their respective counsel and subject to the Court’s
15 approval hereby stipulate that:

16 1. The deadline for Defendant to respond to the Consolidated Complaint is February
17 7, 2025.

18 2. The deadline for Plaintiffs to oppose a motion to dismiss the Consolidated
19 Complaint is March 28, 2025.

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21
22 IT IS SO STIPULATED.
23
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1 Dated: January 3, 2025

By: /s/ Scott E. Gant

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17 Dated: January 3, 2025

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Attorneys for Plaintiff Victoria Monsch

Dated: January 3, 2025

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Dated: January 3, 2025

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ATTESTATION UNDER LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3), the undersigned filer hereby attests that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's content, and have authorized the filing.

DATED: January 3, 2025

By: /s/ Scott E. Gant

PURSUANT TO STIPULATION, IT IS SO ORDERED

Date: _____

HON. CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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Attorneys for Defendant Future Motion, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IN RE: FUTURE MOTION, INC.

PRODUCTS LIABILITY LITIGATION

No.: 23-md-03087-BLF

**PARTIES' PROPOSED AGENDA FOR
CASE MANAGEMENT CONFERENCE
NUMBER 6 (FEBRUARY 20, 2025)**

This document relates to:

ALL ACTIONS

The parties to this MDL proceeding submit the following proposed agenda for the upcoming Case Management Conference to be held on February 20, 2025, at 1:30 p.m. (PT) in person at Courtroom 1 of the Robert F. Peckham Building & United States Courthouse, located at 280 South 1st Street, San Jose, CA 95113, as follows:

No.: 23-md-03087-BLF

PARTIES' PROPOSED AGENDA FOR CMC 6 (FEBRUARY 20, 2025)

ADD1140

I. Status of Master and Bellwether Discovery

A. PIWD Plaintiffs' Position

PIWD Plaintiffs provide this detailed overview of the discovery issues encountered to ensure that this Court has a full understanding of the challenges faced, as well as to inform the Court of the backdrop for a potential motion for discovery sanctions, should Plaintiffs deem such a motion warranted. If this Court would like more detail, PIWD Plaintiffs stand ready to provide it.

From the start of this MDL, discovery has involved substantial challenges, particularly concerning Future Motion, Inc.'s (FMI) responses and the resulting need for Court intervention. The discovery process should, ideally, be "cooperative and largely unsupervised" by the Court, *see Sali v. Corona Reg'l Med. Ctr.*, 884 F.3d 1218, 1219 (9th Cir. 2018), and guided by the principles of fairness and efficiency codified in FED. R. CIV. P. 1, and as recognized in *National Academy of Recording Arts & Sciences, Inc. v. On Point Events, LP*, 256 F.R.D. 678, 680 (C.D. Cal. 2009). Even so, difficulties have arisen. Below are four examples.

1. Initial Written Discovery

PIWD Plaintiffs served their initial written discovery on FMI on March 15, 2024. After receiving a 60-day extension, FMI responded on May 29, 2024, with boilerplate objections, an improper practice frowned upon in the Ninth Circuit and elsewhere. PIWD Plaintiffs issued deficiency letters on June 5 and June 25, 2024, but several issues remained unresolved, prompting a request for a meet-and-confer. Despite efforts to resolve these deficiencies, the matter was brought before Magistrate Judge van Keulen in a Joint Discovery Statement on September 4, 2024. Following a hearing on October 1, 2024, the Court partially granted relief and ordered FMI to supplement its document production by November 1, 2024.

Although some supplemental production occurred on November 5, 2024, many requests were met with a response that no responsive documents existed. FMI made this belated representation after

1 PIWD Plaintiffs spent significant time and expense litigating the objections. For example, requests
2 regarding communications with FMI's board members and investors were supplemented to state that
3 no such documents existed. This response raised concerns, given the prior focus on such
4 communications during the dispute. *See Infanzon v. Allstate Ins. Co.*, 335 F.R.D. 305, 311 (C.D. Cal.
5 2020) (emphasizing how the 2015 amendment to Rule 34 was designed "adopt a more cooperative,
6 transparent, and pragmatic approach"). Those concerns were compounded upon PIWD Plaintiffs'
7 receipt of a supplemental privilege log, wherein FMI asserted that various communications with its
8 investors were protected by the attorney-client privilege and work-product doctrine.
9

10 **2. Document Subpoenas to Board Members and Investors**

11 Concurrently, PIWD Plaintiffs issued subpoenas to certain board members and investors
12 before the July 31, 2024, discovery deadline. Some of those individuals/entities, represented by the
13 same counsel as FMI, objected to the subpoenas, necessitating a separate miscellaneous action in the
14 Southern District of Florida. Although the dispute initially appeared dormant after Magistrate Judge
15 van Keulen's order compelling FMI to produce related communications, subsequent developments
16 revealed that no responsive documents were produced by FMI. Despite expectations that the board
17 members and investors would mirror FMI's responses, they continued to challenge the subpoenas on
18 procedural and substantive grounds. That inconsistent, scattershot approach has further complicated
19 the discovery process.
20

21
22 PIWD Plaintiffs filed a motion to compel in the miscellaneous action in the Southern District
23 of Florida. The parties submitted extensive briefing to that Court regarding the procedural issues raised
24 by PIWD Plaintiffs' motion. The Court denied that motion, finding that the board members and
25 investors had not waived the service requirement and that PIWD Plaintiffs failed to effectuate service
26 of the *motion* on the specific board members and investors who were named in the case.
27
28

1 FMI provided PIWD Plaintiffs with a privilege log, logging communications between FMI, its
2 board members and investors, and Karv Communications, a public relations firm. That privilege log
3 primarily concerned communications related to the Consumer Products Safety Commission's sharp
4 criticism of the OneWheel and demand for a recall. Some privilege log entries were submitted late,
5 contrary to Magistrate Judge van Keulen's Standing Order requiring timely submission. See *Porter v.*
6 *City & Cty. of San Francisco*, 2018 WL 4215602, at *5 (N.D. Cal. Sept. 5, 2018).

7
8 After reviewing FMI's belated privilege log, PIWD Plaintiffs saw 135 entries involving Karv
9 Communications, FMI's go-to public relations firm. Given that communications involving a public
10 relations firm are generally not privileged under California law, PIWD Plaintiffs notified FMI that
11 they sought an *in-camera* inspection, which is a routine procedure. That letter was sent on October 15,
12 2024. Three months then ensued with multiple attempts to resolve this dispute, each of which was
13 unavailing.

14
15 Last month, after multiple attempts to resolve the privilege log dispute informally both by
16 telephone and by Zoom, the parties submitted a Joint Discovery Statement regarding FMI's Privilege
17 Log. After careful consideration, this Court found that PIWD Plaintiffs had shown good cause for an
18 *in-camera* inspection. FMI provided PIWD Plaintiffs with a spreadsheet after eliminating duplicate
19 emails. But several documents were missing from that spreadsheet. And these emails were not, as best
20 that PIWD Plaintiffs could tell, subsumed in other emails.

21
22 PIWD Plaintiffs asked FMI to explain the omission, and FMI claimed that the litigation support
23 department performed email threading "against the full document set on the privilege log and not just
24 the 135 documents identified." FMI's counsel represented in writing that FMI had the email threading
25 "redone on only the 135 documents," leaving three true duplicates. However, these three true
26 duplicates were not the ones that went missing in the first place.

1 PIWD Plaintiffs' well-founded concern about the accuracy of FMI's privilege log and the
2 subsequent disappearance of documents led FMI to resubmit a spreadsheet with the full list of 135
3 documents involving FMI's PR consultant, Karv Communications, and provide this Court with an
4 explanation for the resubmission. PIWD Plaintiffs have selected 15 documents, which are being
5 reviewed by Magistrate Judge van Keulen. This situation, and others, exemplifies the procedural and
6 efficiency difficulties that have ensued due to FMI's unnecessary intransigence. Even a situation that
7 seems simple at the outset quickly becomes unduly complex as a result.

9 3. FMI Employee Depositions

10 FMI's approach to scheduling witness depositions has been equally obstinate. Initially, FMI
11 objected to scheduling any depositions during the 2024 holiday season, as Your Honor will recall from
12 the last Case Management Conference. Plaintiffs agreed in that conference to defer any FMI
13 depositions for the entire month of December, at FMI's request, but the Court also admonished the
14 parties to start depositions in very early January 2025. However, shortly thereafter, FMI altered its
15 stance several times, ultimately refusing to produce certain fact witnesses until issues regarding
16 bellwether discovery were resolved, a further delay that was factually inaccurate and procedurally
17 specious. *See Fresenius Med. Care Holding Inc. v. Baxter Int'l, Inc.*, 224 F.R.D. 644, 653 (N.D. Cal.
18 2004) (party may not "condition its compliance with its discovery obligations on receiving discovery
19 from its opponent"); *On Point Events, LP*, 256 F.R.D. at 680 ("[D]iscovery is not conducted on a 'tit-
20 for-tat' basis.") (citing Rule 26(d)(2)). Although some progress was made in scheduling *some*
21 depositions, issues persisted, including FMI's last-minute attempt (on February 3 and 4) to postpone
22 Mr. Scott McLaughlin's deposition, which had already been agreed to and noticed for February 5,
23 2025. Despite this, the deposition ultimately proceeded as scheduled, though Plaintiffs were left to
24 question whether or not the witness would appear.
25
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1 Following Mr. McLaughlin's deposition, FMI questioned the necessity of additional fact
2 witness depositions, citing "concerns" about potential redundancy and company disruption (though
3 we are now well-past the holiday season). PIWD Plaintiffs responded, emphasizing that these
4 depositions were within their discovery rights and dismissing FMI's unsupported accusations. *See*
5 *Townsend v. McDonnell*, No. 2:18-CV-10011-PSG-JC, 2020 WL 13582793, at *5 (C.D. Cal. Mar. 23,
6 2020) (noting that discovery methods may be used "*in any sequence*" unless otherwise stipulated or
7 ordered by the court) (citing Rule 26(d)(3)) (emphasis added). Moreover, the depositions had already
8 been met and conferred over, dates for the witnesses had been offered to Plaintiffs, and the depositions
9 were duly noticed. In sum, FMI is engaging in a pattern of agreeing to depositions, raising logistical
10 challenges often at the last minute, reluctantly participating in some discovery, but then attempting to
11 impede additional discovery.
12

13
14 Nevertheless, as with all the barrels Plaintiffs have had to jump while attempting to complete
15 discovery on behalf of all the MDL claimants within the time period allotted by the Court, Plaintiffs
16 have persisted and utilized the Court's discovery deficiency procedures where appropriate. They will
17 continue to do so, and will seek additional relief from the Court when necessary.

18 **B. Future Motion, Inc.'s Position**

19 Future Motion is frustrated by PIWD's continued efforts to try to portray it in a bad light, and
20 must clarify the record to provide the necessary context regarding the many challenges it has dealt
21 with in moving discovery forward, all of which could have been avoided.
22

23 **1. PIWD's Intermittent Leadership.**

24 When PIWD leadership seeks to secure commitments from Future Motion, it speaks in one
25 voice and speaks for all PIWD firms. When Future Motion must seek commitments from plaintiffs,
26 it now appears the PIWD leadership lacks all such authority, can only relay messages, and has no
27
28

1 obligations to marshal the members under its leadership. This simply cannot be the function of the
2 collective leadership on this coordinated action.

3 For example, since the Summer of 2024, Future Motion has been seeking to receive full and
4 complete discovery responses and documents from the Bellwether Plaintiffs. Future Motion sent one
5 or more deficiency letters in each case, and reached out repeatedly to plaintiffs' counsel. Given the
6 standard nature of the discovery requests, Future Motion wanted to avoid having to bring this issue to
7 Judge van Keulen for resolution. Accordingly, on November 14, 2024, Future Motion's counsel and
8 PIWD leadership had a meet and confer regarding this and other issues. During the call, PIWD
9 leadership committed to directing all Bellwether Plaintiffs' discovery responses supplemented by
10 December 31, 2024.
11

12 When December 31, 2024 came and went without the Bellwether Plaintiffs supplementing
13 their discovery responses, Future Motion's counsel again reached out on this issue. At that time, and
14 in a confusing change, PIWD leadership represented that they could not bind counsel for the
15 Bellwether Plaintiffs to the December 31, 2024 deadline. They made this claim despite the fact that
16 PIWD leadership is handling 5 of the 6 Bellwether cases. Thus, PIWD leadership was somehow
17 claiming that they could not even bind themselves. As a result, Future Motion has been forced to
18 continue to follow up with Plaintiff's counsel for the Bellwether cases on an individual basis (again,
19 these are almost all the firms that are on leadership), and issues will be presented to Judge van Keulen
20 for resolution shortly. Furthering the inconsistency, some Plaintiff firms refuse to have calls on these
21 issues without PIWD leadership on them, which defies understanding.
22

23 This was just one of the many examples of PIWD leadership taking the position that they can
24 bind Plaintiffs when it fits their needs, but cannot bind them when it does not. PIWD's leadership
25 intermittent authority has unnecessarily slowed discovery substantially.
26
27
28

2. Bellwether Plaintiffs' Failure to Produce or Even Search for Documents.

In addition to the above issue, Future Motion has encountered significantly delayed production of responsive documents and has even learned that some documents have not even been searched for. By way of example, as the Court is aware, the Oatridge case pre-dates the creation of the MDL by several years. Future Motion has been seeking the production of relevant and responsive documents such as medical and employment records from Plaintiff for several years, both before and during the MDL. For reasons that are unclear, Plaintiff has resisted producing these documents.

Recently, in order to move this case ahead, Future Motion scheduled the depositions of Mrs. Oatridge and the Oatridge children, which depositions were to occur during the week of February 10. On that day, February 10, Plaintiff's counsel produced 13,000 pages of responsive documents. There is no way to describe this choice other than improper. Aside from the lack of professionalism, it is unnecessarily delaying and hampering discovery. Future Motion continues to hope that this type of behavior will not continue, but the fact that Plaintiff's counsel will not even tell Future Motion's counsel why Mr. Oatridge passed away, does not give Future Motion much optimism.

Similarly, Bellwether Plaintiff Jonathan Reeves was recently deposed. During his deposition, Future Motion learned that Mr. Reeves had responsive emails and texts related to his Onewheel board and his accident. Even though they had been specifically requested in document requests, Mr. Reeves had no recollection of being asked to search for them and they had not been produced. Future Motion must now follow up on discovery it already demanded and that should have been produced to get these documents, and potentially re-depose Mr. Reeves, at great cost and more delay. As the first Bellwether Plaintiff to be deposed during the MDL, Future Motion is anticipating receiving similar testimony from other Plaintiffs given the very limited to non-existent emails and texts produced in these cases.

1 **3. PIWD Has Engaged in Wasteful, Non-Productive Discovery.**

2 On two occasions, PIWD leadership raised certain discovery issues. In response, Future
3 Motion's counsel reached out on multiple occasions to schedule a meet and confer as required by the
4 Local Rules and Judge van Keulen's Standing Order. Rather than agreeing to meet and confer, PIWD
5 leadership filed Joint Discovery Statements, without any content from Future Motion, claiming
6 (incorrectly) that Future Motion refused to provide a response. In both instances, Judge van Keulen
7 terminated the discovery dispute and ordered the parties to meet and confer, just as Future Motion had
8 requested (and as is required).
9

10 In addition, after Judge van Keulen allowed some limited discovery from Future Motion
11 related to communications with its investors, PIWD prepared separate subpoenas to these investors,
12 which subpoenas went well beyond the scope of discovery allowed by Judge van Keulen. PIWD then
13 filed a motion in Florida Federal Court seeking to compel compliance with the subpoenas, including
14 production of many categories of documents that Judge van Keulen had determined were irrelevant.
15 This attempt to end run Judge van Keulen's Order was even more perplexing because PIWD leadership
16 acknowledged that the subpoenas they sought to enforce had not even been served. Not surprisingly,
17 as indicated in Plaintiff's portion, Plaintiff's motion was denied.
18

19 **4. The Issues Raised by PIWD Leadership are Inaccurate and Misleading.**

20 The issues raised by PIWD leadership are inaccurate and misleading. First, while it is difficult
21 to understand what issues are being identified by PIWD leadership with regard to the initial discovery,
22 what they left out was that Judge van Keulen denied the majority of the 20+ discovery requests raised
23 by PIWD, and significantly limited the ones she ordered to be supplemented. Defendant then
24 conducted searches and supplemented the responses as required. This is how discovery works, and
25 there is nothing improper with Defendant's actions.
26
27
28

1 Plaintiffs also raise an issue about a privilege log related to its Board communications, wrongly
2 claiming that these communications were the subject of Judge van Keulen's Order. That is incorrect.
3 Board communications were not part of her Order. Instead, the Board communications were arguably
4 responsive to other document requests, unrelated to investor communications. Accordingly, as
5 required by the Rules of Civil Procedure, Future Motion prepared a privilege log and produced it,
6 which privilege log made it clear that these were Board communications. When PIWD leadership
7 indicated some confusion on this point, Future Motion's counsel cleared it up by reiterating that the
8 privilege log contained Board communications. PIWD leadership has not raised any further issues
9 about the privilege log, and it is unclear why PIWD has included a reference to it in their submission.
10

11 Finally, Plaintiffs' position on the KARV communications is also confusing. First, they
12 conflate the privilege log related to the Board communications with an entirely separate one related to
13 communications with KARV, a PR agency hired by Future Motion's regulatory counsel. Second, they
14 neglect to mention that this is one of the issues they attempted to present to Judge van Keulen without
15 meeting and conferring. Finally, in deciding to review some of the documents, Judge van Keulen
16 asked for a stripped down privilege log consisting of only the documents at issue, without any
17 duplicates. In attempting to de-duplicate the documents, Future Motion's counsel's litigation support
18 personnel inadvertently did so against the full group of documents, rather than the more limited set at
19 issue. When that mistake was caught, the de-duplication process was re-done, and the requested
20 stripped down privilege log was sent to Judge van Keulen. There is nothing nefarious about this, as it
21 involved a simple mistake that was corrected.
22
23

24 **II. Settlement Conferences with United States Magistrate Judge Beeler**

25 On August 13, 2024 and on November 12, 2024, members of the PIWD Plaintiffs' Leadership,
26 Future Motion's counsel and Future Motion's insurers (represented by their own, independent counsel)
27
28

1 appeared in-person before Magistrate Judge Beeler for two Settlement Conferences. No settlement
2 was reached during the Settlement Conferences.

3 At the conclusion of the last Settlement Conference in November, Judge Beeler ordered PIWD
4 Plaintiffs' Leadership to provide additional information to Future Motion's Counsel, and for Future
5 Motion's counsel to analyze that information and then pass that information and analysis on to Future
6 Motion's Insurers. Plaintiffs' Leadership provided the information that Judge Beeler requested to
7 Future Motion's Counsel at the end of November. Future Motion's counsel provided that information,
8 along with its analysis of the information to Future Motion's insurers' counsel near the end of
9 December. Since that time, the parties have, and will continue to discuss the potential for
10 settlement. As part of those discussions, the parties have continued to trade additional information
11 necessary to further those settlement discussions and are regularly updating Judge Beeler regarding
12 their progress at approximately two-week intervals.
13

14 **III. JCCP 5305 Update**

15 Since the Parties were last before this Court in early November 2024, the JCCP 5305 litigants
16 have continued to follow the Litigation and Discovery schedule (ordered by Special Master Burton
17 via his "Status Order No. Two") without deviation. More specifically:
18

19 In mid-November 2024, the Honorable Syda Cogliati, JCCP 5305 Trial Coordination Judge,
20 issued an Order approving all six of the representative cases proposed by the Parties. Her Honor,
21 furthermore, set the first two trial dates as follows: August 10, 2026 and September 14, 2026. Those
22 dates were intentionally sought by the Parties with the aim of allowing sufficient time for the first two
23 MDL trials to proceed first.
24

25 Master written discovery remains ongoing, and written discovery in the representative cases
26 has been initiated. The Parties, as expected, agreed that depositions of Future Motion employees and
27 corporate representatives shall simultaneously apply to the MDL and JCCP. Those depositions began
28

1 the first week the February. The Parties, in addition, demonstrated commitment to a similarly
2 collaborative MDL-JCCP effort to accomplish simultaneous Bellwether board inspections for both
3 litigations: those inspections were completed the first week of February.

4 Pursuant to FMI's urging, over the course of the last several months, Leadership has
5 communicated with all counsel in the JCCP no less than five times for the purpose of providing
6 detailed guidance specific to their obligation to submit sufficiently responsive Plaintiff Fact Sheets.
7 The Parties are on the cusp of agreeing to a stipulated Plaintiff Fact Sheet deficiency protocol.

8 The Parties continue to actively work on a stipulated pre-trial schedule that shall serve to
9 complete the JCCP Bellwether schedule. New filings and add-on requests have remained minimal. To
10 date, there are approximately 175-180 actions actively pending in JCCP 5305. The next Case
11 Management Conference before the Honorable Judge Cogliati is May 16, 2025.

12 **IV. Class Action Update.**

13 Since the previous update to the Court, the Parties have focused on two issues: status of the
14 pleadings and settlement discussions. First, pursuant to stipulations between the Parties, and by orders
15 of this Court, the Parties extended the pleading deadlines to facilitate settlement discussions. On
16 December 23, 2024, Plaintiffs filed their Second Consolidated Class Action Complaint (the "Operative
17 Complaint"). On February 4, 2025, Future Motion answered the Operative Complaint.

18 In conjunction with the above, the Parties have been engaged in moving forward with a
19 settlement conference. They originally had a settlement conference set with Magistrate Judge Beeler
20 for December 10, 2024. That date was taken off calendar, and has been reset by agreement of the
21 Parties to May 21, 2025. The Parties expect to engage in further discussion and work ahead of the May
22 21, 2025, settlement conference.

23 The Parties propose that should the May 21, 2025, settlement conference not be successful,
24 they shall meet and confer on the class certification and trial schedule for this action, and submit the
25

1 same for review and approval by the Court 14 days from the date of the settlement conference. If the
2 matter resolves, or if issues arise suggesting further time is needed, the Parties will so advise the Court.
3

4 Dated: February 13, 2025

Respectfully submitted,

6 By: /s/ Robert Cowan

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LOCAL RULE 5-1 ATTESTATION

I hereby attest, pursuant to Civil L.R. 5-1(i)(3) that the concurrence to the filing of this document has been obtained from each signatory hereto.

By: /s/ Robert W. Cowan
Robert W. Cowan

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2025, a true and correct copy of the foregoing document was served via filing it with the Court's CM/ECF system, which served all registered parties.

By: /s/ Robert W. Cowan
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EXHIBIT B

ADD1157

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**IN RE BETTERHELP, INC.
DATA DISCLOSURE CASES**

This Document Relates To:
All Cases.

Master File No. 3:23-cv-01033-RS

**FIRST AMENDED CONSOLIDATED
CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED ON ALL
CAUSES OF ACTION SO TRIABLE**

- Declaring that Defendant's conduct alleged herein constitutes a violation of Bus. & Prof. Code §§ 17200 *et seq.* under the unlawful, unfair, and fraudulent prongs of the UCL;
- Awarding Plaintiffs and Class Members restitution, restitutionary disgorgement and injunctive relief for Defendant's violations of the UCL, Cal. Bus. & Prof. Code §§ 17200 *et seq.*;
- Awarding pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- Awarding attorneys' fees and costs as authorized by statute and governing law, including but not limited to Cal. Code of Civil Procedure § 1021.5; and
- Awarding such other and further relief, at law and in equity, as the nature of this case may require or as this Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury on all issues so triable.

Dated: August 5, 2024

By: /s/ Gary M. Klinger

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8 *Submitted on behalf of William P. Ramey, III,*
9 *Susan Kalra and Jeffrey E. Kubiak*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 KOJI IP, LLC,

14 Plaintiff,

15 v.

16 RENESAS ELECTRONICS AMERICA,
17 INC.,

18 Defendant.

Case No.: 3:24-cv-03089-PHK

NOTICE OF APPEAL

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NOTICE OF APPEAL
Case No. 3:24-CV-03089-PHK

1 Notice is hereby given that Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan
2 S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”)(collectively referred to as the
3 “Sanctioned Parties”), in the above-named case, hereby appeal to the United States Court of Appeals for
4 the Federal Circuit from:

- 5 • Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers (“Magistrate’s
6 Order”)(Doc. No. 42)¹ and
- 7 • Order Granting Motion for Attorneys’ Fees and Sanctions (“Magistrate’s Second Order”)(Doc.
8 No. 43).²

9 The appropriate fees for this Notice of Appeal are paid currently. This Notice of Appeal is filed
10 before the District Court has ruled on the Sanctioned Parties Objections to the Magistrate’s Order³ and
11 before the District Court has ruled on the Sanctioned Parties Objections to the Magistrate’s Second Order⁴
12 to seek a stay of execution of both orders. This Notice of Appeal is not a waiver of the Sanctioned Parties’
13 right to have the Magistrate Judge’s Orders reviewed by the District Court. However, a stay of execution
14 of the reporting sanctions ordered by the Magistrate Judge could not be sought without a Notice of Appeal
15 on file.
16

17
18 Dated: April 8, 2025

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26
27 ¹ Doc. No. 42.

² Doc. No. 43.

28 ³ Doc. No. 52.

⁴ Doc. No. 51.

CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2025, a true and correct copy of the foregoing document was served electronically, via ECF, on all counsel of record who are deemed to have consented to such service under the Court's local rules.

By: /s/ Susan Kalra
Susan Kalra

NOTICE OF APPEAL
Case No. 3:24-CV-03089-PHK

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KOJI IP, LLC,

Plaintiff,

v.

RENESAS ELECTRONICS AMERICA,
INC.,

Defendant.

Case No.: 3:24-cv-03089-PHK

**MOTION FOR RELIEF FROM
NONDISPOSITIVE PRETRIAL
ORDER OF MAGISTRATE JUDGE**

MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE
Case No.: 3:24-cv-03089-PHK

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Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) respectfully file this Motion for Relief from Nondispositive Pretrial Order of Magistrate Judge,¹ specifically the Magistrate Judge’s Order Granting Motion for Attorneys’ Fees and Sanctions (“Magistrate’s Second Order”),² filed as Document Number 43.³ As the Magistrate’s Second Order incorporated by reference its prior Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers,⁴ these objections incorporate by reference the objections filed this same day to the Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers,⁵ as if presented fully herein.

I. OBJECTIONS

A. First Objection

The Sanctioned Parties object to Magistrate Judge Kang deciding this matter as both parties did not consent while the case was open. The Magistrate’s Second Order finding that both parties consented is in error.⁶ Plaintiff filed a consent on June 10, 2024, that limited its consent to Final Judgment:

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily consent to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

7

¹ Pursuant to NDCA Local Rule 72.2.

² Doc. No. 43.

³ To the extent necessary, the Sanctioned Parties are also filing these objections as a Motion for De Novo Determination of Dispositive Matter Referred to Magistrate Judge pursuant to NDCA Local Rule 72.3.

⁴ Doc. No. 42.

⁵ Doc. No. 47.

⁶ Doc. No. 43 at 1, lines 21-23 (“1:21-23”).

⁷ Doc. No. 10.

1 However, Defendant did not consent until June 26, 2024,⁸ which was after Final Judgment, after Plaintiff
2 voluntarily dismissed its case on June 12, 2024.⁹ As the case was voluntarily dismissed:

3 [t]h[e] [filing of notice] itself closes the file. There is nothing the defendant can do to
4 fan the ashes of that action into life and the court has no role to play. This is a matter of
5 right running to the plaintiff and may not be extinguished or circumscribed by adversary
6 or court. There is not even a perfunctory order of court closing the file. Its alpha and
omega was the doing of the plaintiff alone. He suffers no impairment beyond his fee for
filing.¹⁰

7 Thus, both parties did not consent before Final Judgment and jurisdiction was not conferred on
8 Magistrate Judge Kang to issue orders not reviewable by the District Court. Where both parties have
9 not consented, a magistrate judge does not obtain jurisdiction over a matter.¹¹ Defendant's consent was
10 not effective as it was after Final Judgment, the limit of Koji's consent. Therefore, whether considered
11 a non-dispositive order or a dispositive order, the Sanctioned Parties request the District Court's
12 consideration of these objections and reversal of the Magistrate's Second Order.
13

14 **B. Second Objection**

15 The Sanctioned Parties object to the Magistrate's Second Order finding that the filing of the
16 present lawsuit constituted the filing of the same lawsuit three times.¹² The Magistrate's Second Order
17 makes this mistaken finding of fact and misapplies the law around a Rule 41(a) dismissal. The case of
18 *Com. Space Mgmt. Co. v. Boeing Co.*¹³ makes clear that the determination of whether a third cause of
19 action is allowable can only be made once a third cause of action is filed.¹⁴ The Magistrate's Second
20 Order incorrectly begins with the premise that no third cause of action was permissible to file at all.
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25 ⁸ Doc. No. 20.

26 ⁹ Doc. No. 12.

27 ¹⁰ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999).

28 ¹¹ *See, e.g., Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 915 (9th Cir. 2003).

¹² Doc. No. 43 at 1:19-22.

¹³ 193 F.3d 1074, 1080 (9th Cir. 1999).

¹⁴ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

1 That is error. In the present case, the Sanctioned Parties' position is that the Colorado action was
2 dismissed on venue grounds, which is not a merit-based dismissal.¹⁵ Further, the Sanctioned Parties
3 contend the present case is not the same as the prior California case because it accuses a different
4 product.¹⁶ It was error for the Magistrate's Second Order not to consider whether the two-dismissal rule
5 applies to the facts of this case.

6
7 The Ninth Circuit has recognized cases where exceptions have been found to the two-dismissal
8 rule.¹⁷ One of the purposes of the two-dismissal rule is to prevent harassment of a defendant.¹⁸ Here,
9 in the Colorado case, the defendant argued the case lacked venue. Rather than wasting resources fighting
10 a venue challenge, the case was dismissed. At the time of dismissal, Defendant had already filed a
11 motion to dismiss based on venue that attached evidence that it did not have a regular and established
12 place of business in Colorado.¹⁹ Based on that evidence, the case was likely going to be dismissed even
13 though Defendant advertised it had an office in Denver. Koji's dismissal saved the resources of the
14 parties and the court by not maintaining venue in Colorado through the motion. The same '703 patent
15 infringement claims against the same product were filed in this District. Due to low sales, that case was
16 soon dismissed.²⁰ The present case accuses a new product.²¹ It is a reasonable argument that the two-
17 dismissal rule does not apply to the present fact situation or that an exception applies. It was error for
18 the Magistrate's Second Order to not consider if exceptions applied to the two-dismissal rule. The
19 present lawsuit, or Koji III, is not the same case as the prior California case as it accused a different
20 product, thus different facts. As well the Colorado case is not the same facts as that case was in a
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25 ¹⁵ Doc. No. 24-2 at ¶¶14-15.

26 ¹⁶ Doc. No. 24-2 at ¶¶14-15.

27 ¹⁷ *Lake at Las Vegas Invs. Grp., Inc. v. Pac. Malibu Dev. Corp.*, 933 F.2d 724, 727 (9th Cir. 1991).

28 ¹⁸ *Id.*

¹⁹ Doc. No. 24-8.

²⁰ Doc. No. 24-2 at ¶¶12-15.

²¹ Doc. No. 24-2 at ¶¶5-15.

1 different venue. The Ninth Circuit uses a “transactional approach for purposes of the two-dismissal rule
2 and hold that a subsequent claim is the same as a previously dismissed claim if it arises from the same
3 set of facts as the first action and the claim could have been or was raised in the preceding action.”²² As
4 the accused product in the present case is different than the accused product in the prior California case,
5 the facts are not the same and therefore the two dismissal rule would not apply, i.e. a negative ruling,
6 such as a finding of noninfringement in the first California action would not be res judicata to the second
7 California action. It was error for the Magistrate’s Second Order to find that the Sanctioned Parties
8 admitted the lawsuits were the same and for the Magistrate’s Second Order to find that they were the
9 same.²³ The causes of action are very different and against different products. Moreover, the Sanctioned
10 Parties did not admit the second California lawsuit was the same as the first California lawsuit and it is
11 error for the Magistrate’s Second Order to conclude otherwise.²⁴ It was further error for the Magistrate’s
12 Second Order to find bad faith based on the filing of the present lawsuit.²⁵ There can be no abuse of the
13 judicial system if the filing is warranted as it is here.²⁶ Further, the Magistrate’s Second Order erred by
14 finding subjective bad faith on the part of the Sanctioned Parties for filing the present case (Koji III).
15 The Sanctioned Parties object to the Magistrate’s Second Order finding that the Colorado lawsuit was
16 dismissed because Koji would lose on a motion to dismiss based on venue.²⁷ Mr. Ramey testified at the
17 hearing that the first lawsuit was based on Defendant’s website providing it maintained an office in
18 Colorado.²⁸ However, Defendant later produced declarations saying it did not have an office.²⁹ In fact,
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24 ²² *Rose Ct., LLC v. Select Portfolio Servicing, Inc.*, 119 F.4th 679, 686 (9th Cir. 2024).

25 ²³ Doc. No. 43 at 19:7-25.

26 ²⁴ Doc. No. 28 at 7-8.

27 ²⁵ Doc. No. 43 at 21:21-26.

28 ²⁶ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

29 ²⁷ Doc. No. 43 at 20:20-23.

²⁸ Ex. A, 43:7-21.

²⁹ Doc. No. 28-2 at ¶10.

1 Koji's briefing expressed that it might have won the motion to dismiss but dismissed to reduce the
2 burden of fighting the motion to dismiss.³⁰

3 The Sanctioned Parties object To the Magistrate's Second Order finding that Mr. Ramey
4 conceded he could find no case law supporting that a voluntary dismissal for convenience is exempt
5 from Rule 41's impact.³¹ Mr. Ramey referenced *Milkcrate Athletics, Inc. v. Adidas Am., Inc.*³² because
6 the parties were discussing Rule 41 and whether attorneys' fees were payable there under as costs. The
7 Ninth Circuit holds that attorneys' fees are not payable as a matter of right under Rule 41.³³ The
8 Sanctioned Parties argument was about attorneys' fees as costs under Rule 41, which seems appropriate
9 as Defendant provided that Rule 41 required dismissal.³⁴ Mr. Ramey further testified that his years of
10 practice provided him the basis to know that he could refile the suit.³⁵

11 The Sanctioned Parties further object to the Magistrate's Second Order finding that
12
13 the Court is deeply troubled by Koji's lack of diligence and apparent disregard for the
14 two-dismissal rule issue prior to filing Koji III.... Koji has identified no legally
15 permissible excuses for its failures to investigate the Rule 41 issues, and its post-hoc
16 arguments about reducing burdens or convenience are simply irrelevant to Rule 41 (as is
17 the only case law cited by Koji)[,]³⁶
18 as there is authority for filing the present lawsuit (Koji III). The Sanctioned Parties did not fail to
19 perform an adequate prefiling investigation.³⁷ Ms. Kalra's briefing provided the authority, namely by
20 arguing the response as filed. As it was a new product, the briefing argued that the Sanctioned Parties
21 used technical resources, including both in-house and Simon Sunatori, to draft new claim charts in this
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24 ³⁰ Doc. No. 24 at 11:10-12:5.

25 ³¹ Doc. No. 43 at 20:23-26.

26 ³² 619 F. Supp. 3d 1009, 1027 (C.D. Cal. 2022).

27 ³³ *Milkcrate Athletics, Inc. v. Adidas Am., Inc.*, 619 F. Supp. 3d 1009, 1027 (C.D. Cal. 2022).

28 ³⁴ Doc. No. 43 at 6:10-23.

³⁵ Ex. A at 46:18-23; Doc. No. 24-2 at ¶¶14-17.

³⁶ Doc. No. 43 at 21:7-15.

³⁷ Doc. No. 43 at 20-21.

1 matter.³⁸ When sales were found to be low on the original accused instrumentality, Sunatori located a
2 new product and helped develop the new claim charts.³⁹ Ramey LLP asserted the patents against the
3 Renesas devices only after collaboration with a technical expert who has over 25-years-experience with
4 patents and research and development.⁴⁰ The Sanctioned Parties complied with its prefiling investigation
5 to file a patent infringement case. The second California lawsuit (Koji III) was asserted in a good faith
6 belief that infringement existed and still exists for the new product.⁴¹ There simply is no evidence that
7 the lawsuits were not filed in good faith.⁴² Further, the evidence of record establishes that an adequate
8 prefiling investigation was made. The Magistrate's Second Order does not identify why the present
9 lawsuit could not have been filed under the facts of the case, in error.
10

11 The Sanctioned Parties further object to the Magistrate's Second Order not considering whether
12 Koji's infringement claims brought in the present lawsuit would have been barred by res judicata. Here,
13 the Sanctioned Parties did perform a pre-filing investigation by comparing the accused *new* product to
14 the claims of the '703 patent.⁴³ It was error for the Magistrate's Second Order to not consider whether
15 the fact that a new product was accused of infringement made the lawsuit not the same for purposes of
16 Rule 41. The Magistrate's Second Order erred in finding that the present action is the same claim as the
17 first case filed in the California. Koji III accuses a different product.⁴⁴ The Sanctioned Parties further
18 object to the Magistrate's Second Order's finding that the Sanctioned Parties' conduct of filing the
19 present lawsuit was in bad faith because it was allegedly frivolous and legally baseless, and lacked
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24 ³⁸ Doc. No. 24-15, Declaration of Simon Sunatori ("Sunatori Decl.") at ¶¶3, 8, 10-11.

25 ³⁹ Doc. No. 24-2 (Ramey Decl.) at ¶14.

26 ⁴⁰ Doc. No. 24-15 (Sunatori Decl.) at ¶7.

27 ⁴¹ Doc. No. 24-2 (Ramey Decl.) at ¶14.

28 ⁴² See, e.g., *Checkpoint Sys., Inc. v. All-Tag Sec. S.A.*, 858 F.3d 1371, 1376 (Fed. Cir. 2017)
(presumption lawsuit is filed in good faith).

⁴³ Doc. No. 1-2, *generally at claim chart*.

⁴⁴ Doc. No. 24-2 at ¶¶14-15.

adequate pre-suit diligence on the Rule 41 issues.⁴⁵ The Magistrate’s Second Order did not consider all of the record evidence of the Sanctioned Parties prefiling investigation.⁴⁶ Here, the Sanctioned Parties had a reasonable basis to file the lawsuit. The Sanctioned Parties further object to the Magistrate’s Second Order finding that “[t]he timing of Koji’s immediate settlement demand after filing Koji III, and Koji’s avowed reason for filing Koji III (simply to demand a higher settlement figure than was demanded during the Second Action) was an improper motivation and amounts to harassment”⁴⁷ because no reasoning is provided why making a settlement demand in a lawsuit on a new product could not be higher than a settlement demand on an entirely different product. These are different products.⁴⁸ Ex. F charts Renesas Electronics’ PTX130W/PTX30W and Ex. G charts Renesas Electronics’ P9222-R-EVK Evaluation kit. There would be no res judicata flowing from a negative merit’s finding in the first California lawsuit⁴⁹ that would affect the merits in Koji III.⁵⁰ The Sanctioned Parties request the District Court affirm these objections and vacate the Magistrate’s Second Order.

C. Third Objection

The Sanctioned Parties object to Magistrate’s Second Order’s finding that Koji filed the same lawsuit three times.⁵¹ The first lawsuit was dismissed over venue and refiled accusing the same product in the Northern District of California.⁵² Koji III accused a different Renesas product of infringing the claims of the ‘703 patent.⁵³ The Sanctioned Parties believed the lawsuit well founded as the first lawsuit

⁴⁵ Doc. No. 43 at 21:16-26.

⁴⁶ Doc. No. 24-2 at ¶¶5-23; Doc. No. 24-15 at ¶¶7-11.

⁴⁷ Doc. No. 43 at 21:17-20.

⁴⁸ Compare Ex. F and Ex. G.

⁴⁹ Case No. 5:23-cv-05752.

⁵⁰ Case No. 5:24-cv-03089.

⁵¹ Doc. No. 42 at 2:12-28.

⁵² Doc. No. 24-2 at ¶¶5-13.

⁵³ Doc. No. 24-2 at ¶¶14-15.

1 was dismissed on venue grounds.⁵⁴ Further, Mr. Ramey was aware of the law that allowed the refileing
2 of the exact cause of action provided a persuasive explanation justifies the filing without incurring
3 exposure to an award of fees under Rule 41(d).⁵⁵ Mr. Ramey believed the dismissal based on venue of
4 the first case was a persuasive explanation for refileing the case.⁵⁶ Additionally, an entirely new product
5 was accused of infringement.⁵⁷ The law is clear that filing even the same lawsuit three time is not
6 automatically barred, that determination must be made in the later filed case.⁵⁸ It was error for the
7 Magistrate's Second Order to conclude that the same lawsuit was filed three times.
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9 D. Fourth Objection

10 The Sanctioned Parties object to the Magistrate's Second Order finding that Koji accused a prior
11 art product of infringing.⁵⁹ The Magistrate's Second Order mistakenly finds that Koji accused prior art
12 products of infringement. However, the record evidence is clear, During the second lawsuit (first
13 California lawsuit), Koji approached Defendant alerting them to three additional products that might be
14 added at the infringement contention stage.⁶⁰ However, Renesas's counsel sent a letter advising that
15 two of the three products were prior art⁶¹ and specifically provided that no claim charts were sent by
16 Koji.⁶² Therefore, as a responsible plaintiff, Koji only provided a claim chart against the product that
17 had not been identified as in the prior art.⁶³ Koji never charted or accused the two products that Renesas
18 said were in the prior art and there is no record evidence of a formal accusation of a charted product. It
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23 ⁵⁴ Doc. No. 24-2 at ¶¶16-18.

24 ⁵⁵ *Milkcrate Athletics, Inc. v. Adidas Am., Inc.*, 619 F. Supp. 3d 1009, 1025 (C.D. Cal. 2022).

25 ⁵⁶ Ex. A, Hearing Transcript at 42:15-43:21; Doc. No. 24-2 at ¶¶14-18.

26 ⁵⁷ Doc. No. 24-2 at ¶¶14-15.

27 ⁵⁸ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

28 ⁵⁹ Doc. No. 43 at 21-24.

⁶⁰ Doc. No. 19-1 at 140.

⁶¹ Doc. No. 19-2 at 158.

⁶² Ex. I, January 18, 2022 letter, at 1-2.

⁶³ Doc. No. 19-1 at 328-338.

1 is an abuse of discretion for the Magistrate's Second Order to make its finding based on such a clearly
2 erroneous view of the evidence. There never was any filing against any of the three products in the first
3 California lawsuit, including the two Renesas identified as being in the prior art. Koji's conduct is a
4 model of how patent litigation should work in that counsel should discuss matters and remove issues
5 without court involvement. Prior art products were not accused. The Magistrate's Second Order
6 reliance on the incorrect fact that Koji accused prior art products for supporting its sanctions is an abuse
7 of discretion. Here, the only plausible conclusion is that Koji never accused any of the three products
8 in the first California lawsuit as none were part of any pleading or infringement contentions including
9 not accusing the potential prior art products. The Magistrate's Second Order's reliance on *Upsher-*
10 *Smith Labs. v. PamLab, L.L.C.*⁶⁴; *Realtek Semiconductor Corp. v. Marvell Semiconductor, Inc.*;⁶⁵ and,
11 *Gammino v. Sw. Bell Tel., L.P.*⁶⁶ as allegedly supporting that Koji formally accused a prior art product
12 and such conduct supports an exceptional case finding is not supported by the facts and in fact is an
13 erroneous view of the evidence. The Magistrate's Second Order does not explain how Koji's letter to
14 Renesas concerning three potentially infringing products is similar to *Realtek's* actual pursuit of
15 infringement claims after learning the accused product was in the prior art. Here, the two products
16 Renesas said were in the prior art were never accused of infringement in any complain and thus the facts
17 not comparable.

21 E. Fifth Objection

22 The Sanctioned Parties object to the Magistrate's Second Order finding of exceptionality based
23 on

24 that, starting on January 3, 2024 and thereafter, Koji litigated the Second Action with
25 subjective bad faith by accusing infringement by products which Koji knew no later than
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27 ⁶⁴ 412 F.3d 1319, 1322 (Fed. Cir. 2005).

28 ⁶⁵ No. C-04-4265 MMC, 2005 WL 3634617 (N.D. Cal. Nov. 21, 2005).

⁶⁶ 512 F. Supp. 2d 626, 635-38 (N.D. Tex. Mar. 23, 2007), *aff'd*, 267 Fed. Appx. 949 (Fed. Cir. 2008).

January 18, 2024—and with the exercise of minimal diligence, should have known prior to adding them to the infringement contentions in this case—were prior art products. The Court finds that Koji’s accusation of prior art products was frivolous and objectively unreasonable, because no reasonable litigant could reasonably expect success on the merits of such a position. Koji’s insistence on pursuing settlement demands during this period of Koji III, and Koji’s avowed reason for filing Koji III (simply to demand a higher settlement figure than was demanded during the Second Action) was an improper motivation and amounts to harassment. The Court **FINDS** that Koji’s actions were at least reckless, if not willfully blinding themselves to the defects in Koji III, coupled with more conduct (including making misrepresentations to this Court, as discussed below). The Court therefore **FINDS** that the Second Action is an exceptional case from January 3, 2024 onward[.]⁶⁷

because Koji never accused the prior art products of infringement in any pleading or infringement contentions. In fact, Exhibit I is a letter from Renesas’ counsel admitting that no claim charts were provided for the three products. After Renesas said the products were in the prior art, Koji continued its investigation but did not chart the products. Exceptionality cannot be found on such a flimsy record. The Magistrate’s Second Order makes the unsupported finding that there were defects in Koji III but does not explain the defects. If the defect is that Koji III accuses the prior art, then the finding is in error as Koji III only later accused the product Renesas did not say was in the prior art. The Magistrate’s Second Order’s finding otherwise is an abuse of discretion and against the great weight of evidence. The Sanctioned Parties therefore further object that the case was found exceptional from January 3, 2024, onwards as Koji III was not yet filed⁶⁸ and the conduct identified as unreasonable, as a matter of law, is not unreasonable.

The Magistrate’s Second Order commits error by finding that the Koji II and Koji III were unreasonably litigated because Koji filed the lawsuits solely to extract nuisance settlements.⁶⁹ The Magistrate’s Second Order’s findings that “(1) Koji made repeated settlement offers “far below the cost

⁶⁷ Doc. No. 43 at 24:13-26.

⁶⁸ Doc. No. 1, noting filing date of May 22, 2024.

⁶⁹ Doc. No. 43 at 24:28-25:6.

1 of defense” during each case (particularly at the outset of each); (2) Koji strategically avoided any testing
2 of the merits of its patent infringement claims in all three lawsuits; and (3) Koji had actual notice of the
3 weakness of its claims as well as of REA’s intention to seek fees under § 285[]”⁷⁰ are in error. The
4 Magistrate’s Second Order erred in finding as a basis supporting sanction that the lawsuit was filed to
5 force a settlement. There simply are no facts to support that finding. The Magistrate’s Second Order
6 accepts Renesas’ allegations with no evidentiary support, in error. There is nothing improper about
7 being a non-practicing entity (“NPE”), as Justice Kennedy explained:

9 An industry has developed in which firms use patents not as a basis for producing and
10 selling goods but, instead, primarily for obtaining licensing fees.⁷¹

11 Further, the Federal Circuit has commented on the business of a non-practicing entity, specifying that
12 “[w]here the patentee is an entity that uses patents primarily to obtain licensing fees, its business
13 objectives are premised on monetary relief being sufficient to compensate for infringement.”⁷² NPEs
14 are subject to the same rules as other parties and the patent statute does not restrict enforceable patent
15 rights to those who practice the patent, even for soon to expire patents as six years of past infringement
16 damages are potentially available.⁷³ The Supreme Court have recognized the legitimate role played by
17 NPEs.⁷⁴ The Magistrate’s Second Order in error will have a chilling effect on patent plaintiff’s practice,
18 including Ramey LLP’s and Koji’s.⁷⁵

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23 ⁷⁰ Doc. No. 43 at 25:2-6

24 ⁷¹ *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 396, 126 S. Ct. 1837, 1842, 164 L. Ed. 2d 641 (2006).

25 ⁷² *Apple Inc. v. Samsung Elecs. Co.*, 809 F.3d 633, 650 (Fed. Cir. 2015).

26 ⁷³ *Thermolife Int’l LLC*, 922 F.3d at 1362.

27 ⁷⁴ *See id* citing *See Continental Paper Bag Co. v. Eastern Paper Bag Co.*, 210 U.S. 405, 424–25, 28 S.Ct. 748, 52 L.Ed. 1122 (1908); *Broadcom Corp. v. Qualcomm Inc.*, 543 F.3d 683, 703 (Fed. Cir. 2008); *Rite-Hite Corp. v. Kelley Co., Inc.*, 56 F.3d 1538, 1547 (Fed. Cir. 1995); *cf. eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 393, 126 S.Ct. 1837, 164 L.Ed.2d 641 (2006).

28 ⁷⁵ Declaration of Carlos Gorrichateguis (“Gorrichategui Decl.”) at ¶¶8-13.

1 It is true that “[a] pattern of litigation *abuses* characterized by the repeated filing of patent
2 infringement actions *for the sole purpose of forcing settlements*, with no intention of testing the merits
3 of one's claims, is relevant to a district court's exceptional case determination under § 285.”⁷⁶
4 However, such a finding requires evidence and not pure conjecture. Here, there is no evidence except
5 that Koji’s settlement demand of \$59,000.00⁷⁷ would have been a royalty of over 1400% if Renesas
6 sales were as low as \$4,000.00.⁷⁸ The Magistrate’s Second Order ignores the realities of the case in
7 error. The low sales volume reflects the low settlement offer.
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9 The true issue on this point is that patent litigation is unavailable to most patent holders due to
10 its high cost. Small patent holders are therefore denied access to the courts.⁷⁹ Any policy or factor
11 that would further serve to deny access to the courts based merely on the value of a case only furthers
12 that injustice. For this reason, the value of a case should not be a factor considered by courts as
13 supporting a sanction. Rather, this Court should do all it can to open the courts to all patent owners
14 with valid infringement claims, regardless of their size or value.
15

16 “[T]here is no minimum damages requirement to file a patent infringement case,” and
17 “[a]sserting seemingly low damages against multiple defendants—or settling with defendants for less
18 than the cost of litigation—does not necessarily make a case” sanctionable⁸⁰ Moreover, as for settlement
19 amounts, a low figure might simply reflect the small size of an individual defendant’s potential liability,
20 as is the case here.⁸¹ Indeed, the figure may result from what the Supreme Court has recognized as the
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24 ⁷⁶ *SFA Sys., LLC v. Newegg Inc.*, 793 F.3d 1344, 1350 (Fed. Cir. 2015); *see Eon-Net LP v. Flagstar*
25 *Bancorp*, 653 F.3d 1314, 1324–28 (Fed. Cir. 2011).

26 ⁷⁷ Doc. No. 19-1 at 151, 374.

27 ⁷⁸ Doc. No. 28-4 at July 18, 2023 e-mail.

28 ⁷⁹ Gorrichategui Decl. at ¶¶8-13.

⁸⁰ *Thermolife Int'l LLC v. GNC Corp.*, 922 F.3d 1347, 1363-4 (Fed. Cir. 2019) *citing AdjustaCam, LLC v. Newegg, Inc.*, 861 F.3d 1353, 1361 (Fed. Cir. 2017).

⁸¹ Doc. No. 28-4 at July 18, 2023 e-mail.

1 normal, legitimate settlement calculus, which includes consideration of litigation costs: specified as a
2 prediction of the amount of liability, discounted by its probability, plus the transaction costs of further
3 litigation.⁸² Liability and damages experts alone can be several hundred thousand dollars with the costs
4 of even small cases getting into the seven figures.

5 The AIPLA Economic Survey for 2023, when this lawsuit was filed, states that when damages
6 are less than \$1 million, the costs of suit per patent for simple technologies is \$300,000 through
7 discovery and claim construction, and another \$600,000 per patent to take the case through trial and
8 appeal.⁸³ When the damages are between \$1 million and \$10 million, those numbers increase to
9 \$600,000 and \$1 million per patent, respectively. Where the damages alleged are between \$10 million
10 and \$25 million, those numbers increase to \$1.5 million and \$3 million per patent, respectively. Where
11 damages alleged exceed \$25 million, those numbers further increase to \$1.5 and \$3.625 million per
12 patent. The report adds that for complex technologies, these reported costs can increase by up to 50%.⁸⁴
13 Accordingly, patent litigation has become so expensive as to make it almost impossible for most patent
14 owners to enforce their patents, in large part due to the litigation practices of corporate defendants, such
15 as Renesas, whose aggressive defense tactics commonly make the costs higher than necessary. A court
16 should consider these factors before sanctioning for providing access to the courts. Further, there is no
17 evidence, or anything in the record, to indicate that Koji sought nuisance-value settlements while
18 pressing baseless infringement contentions. The Magistrate's Second Order makes no comment on the
19 strength of Plaintiff's infringement position, which is central to the merits of the case. Due process
20 requires more. The Magistrate's uses this prior factual finding is in error.⁸⁵

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26 ⁸² *Evans v. Jeff D.*, 475 U.S. 717, 734, 106 S.Ct. 1531, 89 L.Ed.2d 747 (1986); see *Prism Techs. LLC*
27 *v. Sprint Spectrum L.P.*, 849 F.3d 1360, 1369 (Fed. Cir. 2017).

28 ⁸³ *AIPLA Report of the Economic Survey 2023* at 61.

⁸⁴ *AIPLA Report of the Economic Survey 2023* at 61.

⁸⁵ Doc. No. 43 at 25:7-28.

1 It was further error for the Magistrate's Second Order to base its exceptional case finding on a
2 cost of defense from 2019 American Intellectual Property Law Association's "2019 Report of the
3 Economic Survey" as cost of defense should not play any role in an exceptional case finding for the
4 obvious reason that damages from a patent case are not computed from a cost of defense but rather
5 revenue from the accused instrumentality. Thus, while a settlement amount may be based on a cost of
6 defense, a cost of defense has little to do with how a plaintiff litigates a meritorious case. It is error to
7 base exceptionality on cost of defense. Here, with sales as low as Renesas maintained, any resulting
8 damages would be low. Allowing the Magistrate's Second Order to use cost of defense as a basis for
9 an exceptionality finding is an abuse of discretion. Further, the cost of defense is not typically in the
10 control of the party asserting infringement as there is little a party asserting infringement can do to make
11 opposing counsel charge less.
12

14 F. Sixth Objection

15 The Sanctioned Parties object to the Magistrate's Second Order finding that the filing of the
16 present lawsuit was frivolous.⁸⁶ The Magistrate's Second Order accepts the red flag letter from Renesas
17 as providing the correct state of the law and that Koji should have appreciated that it had exposure.
18 However, a defendant's letter cannot serve as the substitute for a well-reasoned opinion of a court. Here,
19 the very first opinion was a sanction from a Show Cause Order after the case was dismissed, followed
20 by this sanction. There was no other court action.
21

22 The same '703 patent infringement claims against the same product previously filed in Colorado
23 were filed in this District. Due to low sales, that case was soon dismissed.⁸⁷ The present case accuses
24 a new product.⁸⁸ It is a reasonable argument that the two-dismissal rule does not apply to the present
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27 ⁸⁶ Doc. No. 43 at 26:1-9.

28 ⁸⁷ Doc. No. 24-2 at ¶¶12-15.

⁸⁸ Doc. No. 24-2 at ¶¶5-15.

1 fact situation or that an exception applies. The Magistrate's Second Order erred when it finds that Koji
2 accused the same product in the prior lawsuit. Exhibit G is the only accused product in Case No. 5:23-
3 cv-05752, the first California lawsuit ("Koji II"). Exhibit F is the only accused product in Case No.
4 5:24-cv-03089 ("Koji III"). The Magistrate's Second Order commits error when it finds that the product
5 in Exhibit F was actually accused in the first California lawsuit,⁸⁹ it was not. Counsel for Koji did raise
6 the possibility that the new product would be included in the infringement contentions but the case was
7 dismissed before infringement contentions were served.⁹⁰ Therefore, it was error for the Magistrate's
8 Second Order to find that the PTX130W/PTX30W product was accused in the first California lawsuit
9 ("Second Action"). The amended complaint filed in the first lawsuit, filed January 12, 2024, does not
10 accuse the PTX130W/PTX30W product identified by the Magistrate's Second Order. It accuses the
11 P9222-R-EVK evaluation kit.⁹¹ The Magistrate's Second Order erred in finding that Koji accused the
12 PTX130W/PTX30W product in the Second Action when it was not identified in the complaint or in any
13 infringement contentions.
14

15
16 It was further error for the Magistrate's Second Order to find that the suit in Koji III was not
17 "new" or "completely different."⁹² Koji never asserted an infringement claim against the
18 PTX130W/PTX30W product until Koji III (3:24-cv-03089).⁹³ The Magistrate's Second Order elevates
19 a discussion between counsel to a formal pleading of infringement which is error. As an entirely new
20 product was being accused in the claim charts sent January 23, 2024,⁹⁴ a new lawsuit was deemed
21 appropriate. There can be no accusation of infringement if the product is not mentioned in the complaint
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25 ⁸⁹ Doc. No. 43 at 26:10-28:8.

26 ⁹⁰ Ramey Decl. at ¶13.

27 ⁹¹ Ex. G at 2 of 5.

28 ⁹² Doc. No. 43 at 27:11-28:4.

⁹³ Compare Ex. F and Ex. G.

⁹⁴ Doc. No. 19-21 at 328-338.

MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE

1 or infringement contentions. Here, the amended complaint in fact limits the infringement to the claim
2 chart attached as Exhibit B to the amended complaint:

3 10. Support for the allegations of infringement may be found in the chart attached as Exhibit B.

4 These allegations of infringement are preliminary and are therefore subject to change.
5

95

6 No further amendments were made and the case was dismissed before the infringement contentions were
7 served. Therefore, as a matter of law the only accused product was what was charted in Exhibit G,
8 P9222-R-EVK. The Ninth Circuit uses a “transactional approach for purposes of the two-dismissal rule
9 and hold that a subsequent claim is the same as a previously dismissed claim if it arises from the same
10 set of facts as the first action and the claim could have been or was raised in the preceding action.”⁹⁶ As
11 the accused product in the present case is different than the accused product in the prior California case,
12 the facts are not the same and therefore the two dismissal rule would not apply, i.e. a negative ruling,
13 such as a finding of noninfringement in the first California action would not be res judicata to the second
14 California action as the second action accused a different product. It was error for the Magistrate’s
15 Second Order to find that the Sanctioned Parties submitted less than fully accurate declarations. The
16 causes of action are very different and against different products.⁹⁷ Ex. F charts Renesas Electronics’
17 PTX130W/PTX30W and Ex. G charts Renesas Electronics’ P9222-R-EVK Evaluation kit. There would
18 be no res judicata flowing from a negative merit’s finding in the first California lawsuit⁹⁸ that would
19 affect the merits in the second California lawsuit.⁹⁹ The Sanctioned Parties request the District Court
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26 ⁹⁵ Ex. H at 3.

27 ⁹⁶ *Rose Ct., LLC v. Select Portfolio Servicing, Inc.*, 119 F.4th 679, 686 (9th Cir. 2024).

28 ⁹⁷ Compare Ex. F and Ex. G.

⁹⁸ Case No. 5:23-cv-05752.

⁹⁹ Case No. 5:24-cv-03089.

1 affirm these objections and vacate the Magistrate's Second Order. The finding of the Magistrate's
2 Second Order that the case was exceptional from January 3, 2024 is in error as the products are different.

3 **G. Seventh Objection**

4 The Sanctioned Parties object to the Magistrate's Second Order awarding a sanction under §1927
5 based on the error in finding Koji III frivolous and filed in bad faith.¹⁰⁰ The Magistrate's Second Order
6 errs in finding that Koji III "could be filed based solely (as far as the record demonstrates) on whether
7 or not more damages (and a higher settlement demand) could be sought for the allegedly 'newly charted'
8 product," as the Magistrate Court cites no record evidence for that conclusion. The Magistrate's Second
9 Order committed further error by finding that Koji III was vexatious because Mr. Ramey immediately
10 extended a settlement offer.¹⁰¹ However, a settlement offer is meant to end a case and the Magistrate's
11 Second Order does not explain how such conduct vexatiously extends a case or how it is harassing.
12 Further, the Magistrate's Second Order does not provide support for its finding that there was inadequate
13 pre-suit investigation into the 2-dismissal rule.¹⁰²

14 The Sanctioned Parties further object to the Magistrate's Second Order finding that a
15 communication with opposing counsel about possible other infringing products amounts to harassment
16 and vexatious conduct.¹⁰³ Communications with opposing counsel are supposed to be about discussing
17 the merits of a case and removing issues without court involvement. It is an abuse of discretion for the
18 Magistrate's Second Order to find that discussing other products is harassing and vexatious. It is further
19 error for the Magistrate's Second Order to find that discussing other potentially infringing products was
20 reckless or undertaken with willful blindness and were coupled with additional troubling behavior, as
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27 ¹⁰⁰ Doc. No. 43 at 28:20-32:6.

28 ¹⁰¹ Doc. No. 43 at 28.

¹⁰² The Sanctioned Parties incorporate the Second Objection at *supra* 2-7.

¹⁰³ Doc. No. 43 at 29.

1 the Magistrate's Second Order does not mention the other troubling behavior or demonstrate that the
2 accused products in Koji III were improperly accused. The Sanctioned parties further object to the
3 Magistrate's Second Order finding bad faith, reckless and intentional misleading of the court,¹⁰⁴ as the
4 product in Koji III was newly accused and not an accused product from the Second Action.¹⁰⁵ Renesas
5 Electronics' PTX130W/PTX30W was not at accused in the Second Action. The Magistrate's Second
6 Order finding that "Mr. Gorrichategui's declaration demonstrates that Mr. Ramey advised Koji
7 expressly that they could file Koji III simply to seek more damages without any evidence in the record
8 as to any pre-filing diligence (or even mention) of the two-dismissal rule under Rule 41(a)(1)(B)[,]"¹⁰⁶
9 is in error as it cites no record evidence.
10

11 The Sanctioned Parties further object to the Magistrate's Second Order finding that
12

13 Mr. Ramey misrepresented the timing and reasons for Ramey firm lawyers' failure to file
14 *pro hac vice* applications ...[,]¹⁰⁷

15 because Mr. Ramey did not place blame. It is not uncommon for Mr. Ramey to discuss case budgets
16 with his clients and seek to lower expenses when possible. The simple fact that a discussion with Dr.
17 Gorrichategui occurred in 2022 in no way makes the statement untrue. The Sanctioned Parties further
18 object to the Magistrate's Second Order using this statement as a basis to sanction under this order as a
19 prior order dealt with this accusation. The Sanctioned Parties further object to the Magistrate's Second
20 Order assessing the sanction from the commencement of the Second Action through the Show Cause
21 hearing but excluding time spent on responding to Koji III.¹⁰⁸ The time period should be limited to the
22 period of time that was extended by the vexatious conduct of the lawyers and cannot begin until after
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26 ¹⁰⁴ Doc. No. 43 at 29-30.

27 ¹⁰⁵ Compare Ex. F and Ex. G.

28 ¹⁰⁶ Doc. No. 43 at 30-31.

¹⁰⁷ Doc. No. 43 at 31.

¹⁰⁸ Doc. No. 43 at 31-32.

1 the start of Koji III. It is error for the Magistrate's Second Order to allow damages for the Show Cause
2 hearing as the Sanctioned Parties had already dismissed their lawsuit.

3 **H. Eighth Objection**

4 The Sanctioned Parties object to the Magistrate's Second Order sanctioning under the Court's
5 inherent powers.¹⁰⁹ The Magistrate's Second Order simply ports its findings from the Section 1927
6 sanction section and sanctions under the court's inherent power, in error, against the lawyers and Koji.
7 The Magistrate's Second Orders findings that there was inadequate pre-suit investigation, accusations
8 of prior art products, made in bad faith, frivolous and undertaken with an improper purpose to harass
9 Renesas are in error as explained herein. Further, there was no misrepresentation of fact to the Court.
10 Any such finding by the Court is in error as the product accused in Koji III was not accused in the
11 Second Action. The Sanctioned Parties further object to the Magistrate's Second Order allowing an
12 award of a sanction from the filing of the Second Action as the time frame is not grounded in the facts
13 of the case because Koji III was against a new product.
14

15 **I. Ninth Objection**

16 The Sanctioned Parties object to the Magistrate's Second Order amount of Fees.¹¹⁰ Specifically,
17 the Sanctioned Parties object to the Magistrate's Second Order including any portion of the Second
18 Action in its award under Section 285. Further, the Sanctioned Parties object to the Magistrate's Second
19 Order awarding fees jointly and severally under §1927 and inherent power and the division by (a) the
20 total amount of fees to be awarded under § 285 as against Koji and awarded jointly and severally as
21 against both Koji and the three Ramey lawyers under the Court's inherent powers, and (b) the subset of
22 fees to be awarded jointly and severally as against Koji and the three Ramey lawyers under § 1927. The
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28 ¹⁰⁹ Doc. No. 43 at 32-33.

¹¹⁰ Doc. No. 43 at 33-34.

Sanctioned Parties further object to the Magistrate's Second Order finding the case truly extraordinary and the practice of the lawyers egregious because there was only ever a good faith effort made to conform to the rules of practice of the court and there was no misrepresentation ever made to the Court.

J. Tenth Objection

The Sanctioned Parties object to the sanctions issued as not being proper.¹¹¹ Sanctions imposed should be limited to what is "sufficient to deter repetition of such conduct or comparable conduct by others similarly situated."¹¹² While a court has broad discretion to choose the appropriate type of sanction to achieve the Rule's goal of deterring future violations,¹¹³ if a violation is found and a sanction deemed appropriate, a more appropriate sanction would be admonishment of the conduct as it has already stopped and was not done to circumvent any rule. The evidence of record is that the procedure used by the Ramey Firm was believed to be in compliance but that immediately after the August 22, 2024, hearing, the process was changed.¹¹⁴ As such, there is little chance the conduct repeats. It is error for the Magistrate's Second Order to require the Sanctioned Parties:

to each complete at least two hours of in-person, California bar-approved CLE classes on Federal Court Litigation (one hour of which shall include a Legal Ethics component or credit), and at least an additional two hours of in-person, California bar-approved CLE on Patent Litigation (one hour of which shall include a Legal Ethics component or credit).¹¹⁵

It is further error for the Magistrate's Second Order to require the Sanctioned Parties:

each self-report the sanctions imposed on them herein and provide a copy of this Order to the relevant disciplinary committees or offices of the State Bar of California, the State Bar of Texas, the bar of the United States District Court for the District of Colorado, the

¹¹¹ Doc. No. 44 at 34-36.

¹¹² Fed.R.Civ.P. 11(b)(2)(A).

¹¹³ *Link v. Wabash, R.R. Co.*, 370 U.S. 626, 633, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962).

¹¹⁴ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

¹¹⁵ Doc. No. 43 at 35.

United States Patent and Trademark Office, and any other state or federal bars of which they are members.¹¹⁶

It is further error for the Magistrate's Second Order to require the Sanctioned Parties:

self-report the sanctions imposed on them herein and provide a copy of this Order to the Northern District of California's Standing Committee of Professional Conduct, to the judges presiding over every other case currently pending in the Northern District of California in which any of these attorneys' names appears on any filings or pleadings (including all cases in which their names appear as "*pro hac vice* anticipated" or similar language), and as an attachment to any motion for *pro hac vice* admission filed by or on behalf of any of these lawyers in any action filed in this Court **during the next five years.**¹¹⁷

These sanctions are severe and unwarranted, potentially career ending, and unreasonable as to the next 5 years. The Sanctioned Parties have already discontinued the practice and it is not likely to be repeated.¹¹⁸ A stay for any self-reporting, and other sanctions, should be afforded the Sanctioned Parties pending any appeal as once reported the sanctions cannot be undone.¹¹⁹ The harm will be immediate and severe.

K. Eleventh Objection

The Sanctioned Parties object to the Magistrate's Second Order for impairing the value of Koji IP, LLC and its patent portfolio, including U.S. Pat. No. 10,790,703 ("the '703 patent"). Koji's manager attempted to license the '703 patent before resorting to litigation.¹²⁰ The Magistrate's Second Order reduces Koji's right to assert its patents by lowering the value of the '703 patent and reducing the chances Koji will find a law firm to represent it and assert its protected First Amendment rights.¹²¹ The

¹¹⁶ Doc. No. 42 at 38.

¹¹⁷ Doc. No. 43 at 36.

¹¹⁸ Doc. No. 28-1 at ¶14; Doc. No. 28-2 at ¶19; and, Doc. No. 28-15 at ¶10.

¹¹⁹ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *1-2 (D. Idaho Jan. 7, 2015) citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); see also *Nken v. Holder*, 556 U.S. 418, 433 (2009).

¹²⁰ Declaration of Carlos Gorrichategui ("Gorrichategui Decl.") at ¶2.

¹²¹ Gorrichategui Decl. at ¶¶8-13.

1 Magistrate's Second Order is designed to have a chilling effect on patent plaintiff's litigation, in error.
2 As the privileges and immunities clause of the U.S. Constitution prohibits a state from denying a citizen
3 with a federal claim or defense from engaging an out-of-state lawyer to collaborate with an in-state
4 lawyer and give legal advice concerning it within the state, a federal court order should not be able to
5 prohibit the same conduct.¹²²

7 II. CONCLUSION

8 Koji IP, LLC, William P. Ramey, III, Susan S.Q. Kalra, and Jeffrey E. Kubiak respectfully
9 request the District Court grant these objections to the Magistrate's Second Order and set it aside in its
10 entirety.

11 Respectfully submitted,

12 /s/ Susan Kalra
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Email: sqklaw@gmail.com

17 *Attorneys for Plaintiffs*
18 *Koji IP, LLC, and*
19 *Submitted on behalf of William P. Ramey,*
III, Susan Kalra and Jeffrey E. Kubiak

20 CERTIFICATE OF CONFERENCE

21 In an abundance of caution, I conferred with counsel for Defendant on April 6, 2025, that we
22 would be filing these objections and Defendant is opposed to both objections and the increase in
23 pages.
24

25 By: /s/ William P. Ramey, III
26 **William P. Ramey, III**
27

28 ¹²² See, e.g., *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 170 (2d Cir. 1966).

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*Attorneys for Plaintiffs
Koji IP, LLC and
Submitted on behalf of pro se
William P. Ramey, III,
Susan Kalra and Jeffrey E. Kubiak*

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KOJI IP, LLC,
Plaintiff,
v.
RENESAS ELECTRONICS
AMERICA, INC.,
Defendant.

Case No.: 3:24-cv-03089-PHK

**MOTION FOR RELIEF FROM
NONDISPOSITIVE PRETRIAL
ORDER OF MAGISTRATE
JUDGE**

MOTION FOR RELIEF FROM NONDISPOSITIVE PRETRIAL ORDER OF MAGISTRATE JUDGE

Case No.: 3:24-cv-03089-PHK

1 Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra
2 (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”)
3 respectfully file this Motion for Relief from Nondispositive Pretrial Order of Magistrate
4 Judge,¹ specifically the Magistrate Judge’s April 9, 2025, In-Chambers Text Only Order
5 (“Magistrate’s In-Chambers Order”).²
6

7
8 **I. OBJECTIONS**

9 **A. First Objection**

10 The Sanctioned Parties object to Magistrate Judge Kang deciding this matter as
11 both parties, Koji and Renesas Electronics America, Inc., did not consent while the case
12 was open. The Magistrate’s In-Chambers Order finding that both parties consented is in
13 error.³ Plaintiff filed a consent on June 10, 2024, that limited its consent to Final
14 Judgment.⁴ However, Defendant did not consent until June 26, 2024,⁵ which was after
15 Final Judgment, after Plaintiff voluntarily dismissed its case on June 12, 2024. Thus,
16 both parties did not consent before Final Judgment and jurisdiction was not conferred on
17 Magistrate Judge Kang to issue orders not reviewable by the District Court. Where both
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24 ¹ Pursuant to NDCA Local Rule 72.2.

25 ² Doc. No. 56; To the extent necessary, the Sanctioned Parties are also filing these
26 objections as a Motion for De Novo Determination of Dispositive Matter Referred to
27 Magistrate Judge pursuant to NDCA Local Rule 72.3.

28 ³ Doc. No. 42 at 1, lines 21-22 (“1:21-22”).

⁴ Doc. No. 10.

⁵ Doc. No. 20.

1 parties have not consented, a magistrate judge does not obtain jurisdiction over a matter.⁶
2 Defendant's consent was not effective as it was after Final Judgment.

3 **B. Second Objection**

4
5 The Sanctioned Parties object to the Magistrate's In-Chambers Order⁷ for not
6 granting expedited briefing on the Sanctioned Parties Emergency Motion to Set Bond and
7 Stay Enforcement as requested.⁸ The (1) Magistrate's Order⁹ and the (2) Magistrate's
8 Second Order¹⁰ both require performance before the Magistrate's In-Chamber Order's
9 hearing of May 6, 2025, thereby effectively denying the relief sought by the Motion
10 without the opportunity to be heard. Specifically, the Motion seeks an Order staying
11 enforcement of (1) Magistrate's Order¹¹ in its entirety and staying the reporting
12 requirements in (2) Magistrate's Second Order¹² pending appeal.¹³ The Magistrate's
13 Order and the Magistrate's Second Order issued extreme, career impacting sanctions, and
14 due process requires that a Motion to Set Bond and Stay Enforcement is heard before the
15 sanctions take effect or that the sanctions are stayed until a hearing can be had. The
16 Magistrate's In-Chambers Order deprives the Sanctioned Parties of any opportunity to be
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23 ⁶ See, e.g., *Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 915 (9th Cir. 2003).

24 ⁷ Doc. No. 56.

25 ⁸ Doc. No. 54 ("The Motion").

26 ⁹ Doc. No. 42.

27 ¹⁰ Doc. No. 43 (reporting requirements are Doc. No. 34 at 35-36 (at items 5-8)).

28 ¹¹ Doc. No. 42.

¹² Doc. No. 43 (reporting requirements are Doc. No. 34 at 35-36 (at items 5-8)).

¹³ Doc. No. 53.

1 heard prior to the sanctions taking effect, in violation of their constitutional rights.
2 Further, the Magistrate's Order issuance of a monetary sanction under Rule 11 is not
3 allowed under the literal language of Rule 11.¹⁴
4

5 The Court's In-Chambers Order commits error by only requiring Defendant to
6 submit a response as to whether expedited briefing is appropriate or even necessary and
7 leaving in place the default briefing schedule¹⁵ as the default briefing schedule ensures
8 that the parties must pay the Rule 11 monetary sanction of the Magistrate's Order and
9 self-report prior to any possible resolution of the Motion. The Sanctioned Parties request
10 the District Court grant these objections and stay the Magistrate's Order¹⁶ and the
11 reporting requirements of the Magistrate's Second Order¹⁷ pending appeal.
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15 C. Third Objection

16 The Sanctioned Parties object to the Magistrate's In-Chambers Order requiring an
17 in person hearing on May 6, 2025, because an in person hearing only further drives up
18 the costs of the litigation and Mr. Ramey is New York on another matter on May 7,
19 2025.¹⁸ Further, delaying the hearing until after the Magistrate's Order requires
20 performance violates the Sanctioned Parties constitutional right of due process.
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25 ¹⁴ Fed. R. Civ. P. 11 (emphasis added).

26 ¹⁵ Doc. No. 56 at 1.

27 ¹⁶ Doc. No. 42.

28 ¹⁷ Doc. No. 43 (reporting requirements are Doc. No. 34 at 35-36 (at items 5-8)).

¹⁸ Declaration of William P. Ramey, III at ¶3.

D. Fourth Objection

The Magistrate’s In-Chambers Order does not afford proper due process on the Sanctioned Parties. “To protect against abuse and to ensure parties receive due process, individuals subject to sanction are afforded procedural protections, the nature of which varies depending upon the violation, and the type and magnitude of the sanction.”¹⁹ “The more punitive the nature of the sanction, the greater the protection to which an individual is entitled.”²⁰ Here, the Magistrate’s Order and Magistrate’s Second Order provided in essence civil (compensatory) and criminal (punitive) sanctions. The Supreme Court has explained that when strictly compensatory or remedial sanctions are issued, civil procedures, rather than criminal-type procedures, may be applied.²¹ Compensatory sanctions may go no further than to redress the wronged party “for losses sustained” and may not impose any additional consequence as punishment for the sanctioned party’s misbehavior.²² However, when a sanction is imposed under a court’s inherent authority as a penalty or to punish someone, “a court would need to provide procedural guarantees

¹⁹ *F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc.*, 244 F.3d 1128, 1137 (9th Cir. 2001).

²⁰ *Id.*

²¹ *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 826–830, 114 S.Ct. 2552, 129 L.Ed.2d 642 (1994).

²² *Id.* at 829, 114 S.Ct. 2552 (quoting *United States v. Mine Workers*, 330 U.S. 258, 304, 67 S.Ct. 677, 91 L.Ed. 884 (1947)).

1 applicable in criminal cases, such as a ‘beyond a reasonable doubt’ standard of proof.”²³
2 Here, the Magistrate’s Order and the Magistrate’s Second Order impose penal sanctions
3 and therefore, the Sanctioned Parties “must be afforded the full protection of a criminal
4 jury trial, including the right to be advised of the charges, the right to a disinterested
5 prosecutor, the right to assistance of counsel, a presumption of innocence, proof beyond
6 a reasonable doubt, the privilege against self-incrimination, the right to cross-examine
7 witnesses, the opportunity to present a defense and call witnesses, and the right to a jury
8 trial if the fine or sentence imposed will be serious.”²⁴ Here, the Magistrate’s In-
9 Chambers Order falls well-short of providing procedural fairness.
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13 II. CONCLUSION

14
15 The Sanctioned Parties respectfully request the District Court grant these
16 objections to the Magistrate’s In-Chambers Order and stay the Magistrate’s Order²⁵ and
17 the reporting requirements of the Magistrate’s Second Order²⁶ pending appeal.
18

19 Respectfully submitted,

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25
26 ²³ *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 107, 137 S. Ct. 1178, 1186, 197
L. Ed. 2d 585 (2017).

27 ²⁴ *Am. Unites for Kids v. Rousseau*, 985 F.3d 1075, 1088–89 (9th Cir. 2021).

28 ²⁵ Doc. No. 42.

²⁶ Doc. No. 43 (reporting requirements are Doc. No. 34 at 35-36 (at items 5-8)).

*Attorneys for Plaintiff
Koji IP, LLC and
Submitted on behalf of pro se William
P. Ramey, III, Susan Kalra and
Jeffrey E. Kubiak*

CERTIFICATE OF CONFERENCE

In an abundance of caution, I conferred with counsel for Defendant on April 10, 2025, by e-mail, that we would be filing these objections, and requesting a remote hearing and he is opposed.

By: /s/William P. Ramey, III
William P. Ramey, III

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2025, a true and correct copy of the foregoing document was served electronically, via ECF, on all counsel of record who are deemed to have consented to such service under the Court's local rules.

By: /s/ Susan Kalra
Susan Kalra

Kim Stokes

From: ECF-CAND@cand.uscourts.gov
Sent: Monday, April 14, 2025 12:17 PM
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Subject: Activity in Case 3:24-cv-03089-PHK Koji IP, LLC v. Renesas Electronics America, Inc.
Order on Motion for Miscellaneous Relief

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U.S. District Court

California Northern District

Notice of Electronic Filing

The following transaction was entered on 4/14/2025 at 10:17 AM and filed on 4/14/2025

Case Name: Koji IP, LLC v. Renesas Electronics America, Inc.

Case Number: [3:24-cv-03089-PHK](#)

Filer:

Document Number: 60(No document attached)

Docket Text:

[IN-CHAMBERS TEXT ONLY ORDER]: Defendant shall file a response to the substance of the [54] Emergency Motion to Set Bond and Stay Enforcement of Judgment Pending Appeal by no later than April 18, 2025. Plaintiff's reply brief shall be due April 25, 2025. The in-person hearing on the [54] Emergency Motion is RESET for April 21, 2025 at 02:00 PM in San Francisco, Courtroom F, 15th Floor. The [57] Motion for Relief is DENIED as procedurally improper under Civil Local Rule 7-11 and moot in light of this Order. Signed by Judge Peter H. Kang on 04/14/2025. *(This is a text-only entry generated by the court. There is no document associated with this entry.)* (phk1c2, COURT STAFF) (Filed on 4/14/2025)

3:24-cv-03089-PHK Notice has been electronically mailed to:

Benjamin Charkow bcharkow@mabr.com

Jason A. Crotty jcrotty@mabr.com, ckirigakubo@mabr.com, esullenberger@mabr.com, litdocketing@mabr.com

Susan S.Q. Kalra skalra@rameyfirm.com, 3167001420@filings.docketbird.com, litigation@rameyfirm.com, litparalegals@rameyfirm.com, sqklaw@gmail.com

3:24-cv-03089-PHK Please see [Local Rule 5-5](#); Notice has NOT been electronically mailed to:

Kim Stokes

From: ECF-CAND@cand.uscourts.gov
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U.S. District Court

California Northern District

Notice of Electronic Filing

The following transaction was entered on 4/14/2025 at 1:16 PM and filed on 4/14/2025

Case Name: Koji IP, LLC v. Renesas Electronics America, Inc.

Case Number: [3:24-cv-03089-PHK](#)

Filer:

Document Number: 61(No document attached)

Docket Text:

[IN-CHAMBERS TEXT ONLY ORDER]: Defendant shall file a consolidated response to the [47] [51] [52] Motions for Relief by no later than April 17, 2025. Plaintiff shall file a consolidated reply brief to said motions by no later than April 21, 2025. An in-person hearing on the [47] [51] [52] Motions for Relief is SET for April 23, 2025 at 02:00 PM in San Francisco, Courtroom F, 15th Floor. Signed by Judge Peter H. Kang on 04/14/2025. *(This is a text-only entry generated by the court. There is no document associated with this entry.)* (phk1c2, COURT STAFF) (Filed on 4/14/2025)

3:24-cv-03089-PHK Notice has been electronically mailed to:

Benjamin Charkow bcharkow@mabr.com

Jason A. Crotty jcrotty@mabr.com, ckirigakubo@mabr.com, esullenberger@mabr.com,

litdocketing@mabr.com

Susan S.Q. Kalra skalra@rameyfirm.com, 3167001420@filings.docketbird.com,
litigation@rameyfirm.com, litparalegals@rameyfirm.com, sqklaw@gmail.com

3:24-cv-03089-PHK Please see [Local Rule 5-5](#); Notice has NOT been electronically mailed to:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COOPERATIVE ENTERTAINMENT,
INC.,

Plaintiff,

v.

ALIBABA CLOUD US LLC,
Defendant.

Case No. 25-cv-01842-LJC

**ORDER DENYING APPLICATION TO
APPEAR PRO HAC VICE AND ORDER
TO SHOW CAUSE WHY SANCTIONS
SHOULD NOT BE IMPOSED**

Re: Dkt. No. 13

Plaintiff filed this action on February 20, 2025, apparently represented only by attorney Jennifer Ishimoto, a member in good standing of the California Bar and the bar of the Court.

On April 14, 2025, attorney William P. Ramey III applied to appear pro hac vice to represent Plaintiff as co-counsel to Ishimoto. ECF No. 13. In that application, Ramey declares under penalty of perjury that he has “been granted pro hac vice admission by the Court 0 times in the 12 months preceding this application.” *Id.* That declaration is false: Ramey has been granted permission to appear pro hac vice at least five times in this District in the last year. *WirelessWerx IP, LLC v. Zipline Int’l*, No. 24-cv-08462-PHK, ECF No. 27 (N.D. Cal. Mar. 4, 2025); *Kephart Consulting, LLC v. AxxonSoft US, Inc.*, No. 24-cv-06770-KAW, ECF No. 30 (N.D. Cal. Feb. 24, 2025); *CyboEnergy, Inc. v. Duracell Power Ctr., LLC*, No. 24-cv-08891-LJC, ECF No. 10 (N.D. Cal. Dec. 12, 2024); *WirelessWerx IP, LLC v. Life360, Inc.*, No. 23-cv-06725-AMO, ECF No. 38 (N.D. Cal. Oct. 8, 2024); *WirelessWerx IP, LLC v. Lyft, Inc.*, No. 24-cv-01144-VKD, ECF No. 57 (N.D. Cal. Apr. 30, 2024).¹

¹ Ramey also falsely declared under penalty of perjury in the *CyboEnergy* and *WirelessWerx v. Lyft* cases that he had not previously been permitted to appear pro hac vice in the preceding twelve months. *See also Safecast Ltd. v. Google, LLC*, No. 23-cv-03128-PCP, ECF No. 74 (N.D. Cal. Aug. 3, 2023) (previous appearance in the year prior to his application in *Lyft*).

1 **A. Denial of Application**

2 Previous pro hac vice appearances are material to the consideration of an application
3 because this Court’s local rules prohibit appearing pro hac vice “if the applicant . . . [i]s regularly
4 engaged in the practice of law in the State of California.” Civ. L.R. 11-3(c).

5 Ramey’s misrepresentation here is particularly egregious because Ramey has recently been
6 sanctioned by another judge in this District for unauthorized practice of law and misconduct
7 related to pro hac vice applications. In *Koji IP, LLC v. Renesas Electronics America, Inc.*, Judge
8 Kang identified “at least **fifty-six** . . . civil actions in the Northern District of California in which
9 Mr. Ramey registered as an attorney of record for a party on the docket for each of those cases, or
10 at a minimum, signed the pleadings identifying himself to be the plaintiff’s counsel with ‘*pro hac*
11 *vice*’ status or ‘*pro hac vice* anticipated’ language added.” *Koji IP*, No. 24-cv-03089-PHK, 2025
12 WL 917110, at *3 (N.D. Cal. Mar. 26, 2025), *appeal docketed*, No. 25-1639 (Fed. Cir. Apr. 11,
13 2025).² Judge Kang noted that Ramey sought permission to appear pro hac vice in only ten of
14 those cases—including each of the five cases listed above where Ramey was granted such status in
15 the year preceding his present application—and specifically quoted the number of prior pro hac
16 vice appearances that Ramey reported on each of those applications. *Id.* at *4.

17 As Judge Kang noted, among other serious concerns, “Given the sheer number of cases in
18 this District alone in which Mr. Ramey and [another attorney not appearing here] have been
19 involved in recent years, had they properly filed motions for *pro hac vice* admission in these cases,
20 they would certainly have reached the point of disqualification for *pro hac* admission due to their
21 regular engagement in the practice of law in California”—not to mention “the numerous cases in
22 which they have also appeared in the Central District of California.” *Id.* at *16.

23 Judge Kang imposed monetary sanctions of \$45,264 against Ramey and ordered him to
24 include that sanctions order “as an attachment to any motion for *pro hac vice* admission filed by or
25 on behalf of any of these lawyers in any action filed in a California federal court during the next
26 five years,” as well as providing notice in pending cases and to various disciplinary bodies “no

27 _____
28 ² Ramey and others have also filed several motions for relief from Judge Kang’s order. *Koji IP*,
No. 24-cv-03089-PHK, ECF Nos. 47, 51, 52 (N.D. Cal. Apr. 7–8, 2025)

1 later than April 26, 2025.” *Id.* at *21 (emphasis omitted). But less than three weeks after Judge
2 Kang issued that sanctions order, Ramey filed his present application in this case, with the above-
3 noted false representation of prior pro hac vice appearances, and without a copy of Judge Kang’s
4 order. On April 16, 2025, Ramey filed another copy of his application for admission pro hac vice,
5 still bearing an April 14 signature date and the false assertion that he has never been admitted pro
6 hac vice in the last year, but this time attaching Judge Kang’s sanctions order, as well as a second
7 order by Judge Kang in *Koji IP* imposing sanctions in response to a motion by the defendant. ECF
8 No. 14.

9 Under this Court’s local rules, the “assigned Judge shall have discretion to accept or reject
10 the application” to proceed pro hac vice. Civ. L.R. 11-3(d). Ramey’s application to appear pro
11 hac vice is DENIED, with prejudice, based on: (1) Ramey’s false representation under penalty of
12 perjury that he had not been granted permission to appear pro hac vice in the preceding twelve
13 months; and (2) Ramey’s extensive and pervasive unauthorized practice of law in this District,
14 false representations regarding pro hac vice status, and related misconduct documented by Judge
15 Kang in *Koji IP*. Each of those reasons is sufficient in itself to deny the application. Ramey also
16 appears to have violated at least the spirit of Judge Kang’s sanctions order (if not the letter,
17 depending on how the April 26, 2025 deadline is parsed) by failing to file a copy of that order with
18 the original version of his present application, although he rectified that violation—and only that
19 violation—in his subsequent filing.

20 **B. Sanctions Against Ramey**


21 Ramey’s misrepresentation regarding his previous permission to appear pro hac vice may
22 also warrant sanctions beyond the denial of his application. “By presenting to the court a
23 pleading, written motion, or other paper—whether by signing, filing, submitting, or later
24 advocating it—an attorney . . . certifies that . . . the factual contentions have evidentiary support
25 . . .” Fed. R. Civ. P. 11(b). “If, after notice and a reasonable opportunity to respond, the court
26 determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any
27 attorney, law firm, or party that violated the rule or is responsible for the violation.” Fed. R. Civ.
28 P. 11(c)(1). The Court may issue such notice and sanctions sua sponte. Fed. R. Civ. P. 11(c)(3).

1 “A sanction imposed under this rule must be limited to what suffices to deter repetition of the
2 conduct or comparable conduct by others similarly situated,” and may “include nonmonetary
3 directives” or “an order to pay a penalty into court.” Fed. R. Civ. P. 11(c)(4). “The district court
4 has wide discretion in determining the appropriate sanction for a Rule 11 violation.” *Hudson v.*
5 *Moore Bus. Forms, Inc.*, 836 F.2d 1156, 1163 (9th Cir. 1987); *see also Koji IP*, 2025 WL 917110,
6 at *8.


7 Ramey’s assertion that he had “been granted pro hac vice admission by the Court 0 times
8 in the 12 months preceding this application,” ECF No. 13 at 1, does not appear to have had
9 evidentiary support. It is directly contradicted by this Court’s records, including but not limited to
10 Judge Kang’s recent sanctions order, which Ramey undoubtedly read and considered mere weeks
11 before filing his application in this case, and then attached to his second application that repeated
12 the same false statement. Judge Kang’s imposition of substantial monetary sanctions does not
13 appear to have been sufficient to deter Ramey from continuing to make false representations
14 related to pro hac vice applications in this District.³ Ramey is therefore personally ORDERED
15 TO SHOW CAUSE why the following sanctions should not issue under Rule 11, the Court’s
16 inherent authority, or any other applicable authority: (1) monetary sanctions in the amount of
17 \$1,000 payable to the Court; (2) referral to this Court’s Standing Committee on Professional
18 Responsibility to consider additional consequences, potentially including remedial education or
19 restrictions on Ramey’s ability to practice in this District; and (3) a requirement to provide a copy
20 of this Order (and any subsequent order imposing sanctions) to the same recipients and in the
21 same circumstances as required by Judge Kang’s sanctions order in *Koji IP*. Ramey shall file a
22 response to this Order no later than April 30, 2025.

23
24
25 ³ The Court notes that Ramey made the same false statement in two other cases where he applied
26 for pro hac vice admission on April 14, 2025 (and filed subsequent versions of the same
27 applications attaching Judge Kang’s orders on April 16, 2025), but this Order does not rely on
28 those false statements as the basis for sanctions in this case. *See CyboEnergy, Inc. v. N. Elec.*
Power Tech., Inc., No. 23-cv-06121-JST, ECF Nos. 45, 47 (N.D. Cal. Apr. 14 & 16, 2025); *Lime*
Green Lighting, LLC v. Brilliant NextGen Inc., No. 25-cv-00950-VKD, ECF Nos. 8, 9 (N.D. Cal.
Apr. 14 & 16, 2025); *see also N. Elec. Power*, ECF No. 46 (N.D. Cal. Apr. 16, 2025) (order to
show cause why application should not be denied).

IT IS SO ORDERED.


LISA J. CISNEROS
United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COOPERATIVE ENTERTAINMENT, INC. 

Plaintiff(s),

v.

ALIBABA CLOUD US LLC ,

Defendant(s).

Case No. 5:25-cv-01842

**APPLICATION FOR ADMISSION OF
ATTORNEY PRO HAC VICE
(CIVIL LOCAL RULE 11-3)**

I, William P. Ramey, III, an active member in good standing of the bar of
Western District of Texas, hereby respectfully apply for admission to practice pro hac
vice in the Northern District of California representing: COOPERATIVE ENTERTAINMENT, INC. in the
above-entitled action. My local co-counsel in this case is Jennifer Ishimoto, an
attorney who is a member of the bar of this Court in good standing and who maintains an office
within the State of California. Local co-counsel's bar number is: 211845.

5020 Montrose Blvd. #800 Houston, TX, 77006

2100 Geng Road, Suite 210, Palo Alto, - California 94303

MY ADDRESS OF RECORD

LOCAL CO COUNSEL'S ADDRESS OF RECORD

(713) 426-3923

408-981-9472

MY TELEPHONE # OF RECORD

LOCAL CO-COUNSEL'S TELEPHONE # OF RECORD

wramey@rameyfirm.com

ishimoto@banishlaw.com

MY EMAIL ADDRESS OF RECORD

LOCAL CO-COUNSEL'S EMAIL ADDRESS OF RECORD

I am an active member in good standing of a United States Court or of the highest court of
another State or the District of Columbia, as indicated above; my bar number is: 24027643.

A true and correct copy of a certificate of good standing or equivalent official document
from said bar is attached to this application.

I have been granted pro hac vice admission by the Court 5 times in the 12 months
preceding this application.

1 I agree to familiarize myself with, and abide by, the Local Rules of this Court, especially
2 the Standards of Professional Conduct for attorneys and the Alternative Dispute Resolution Local
3 Rules. I declare under penalty of perjury that the foregoing is true and correct.

4 Dated: 2025-04-17

William P. Ramey, III
APPLICANT

7
8 ORDER GRANTING APPLICATION
9 FOR ADMISSION OF ATTORNEY PRO HAC VICE

10
11 IT IS HEREBY ORDERED THAT the application of William P. Ramey, III is
12 granted, subject to the terms and conditions of Civil L.R. 11-3. All papers filed by the attorney
13 must indicate appearance pro hac vice. Service of papers upon, and communication with, local co-
14 counsel designated in the application will constitute notice to the party.

15 Dated: _____

16
17 _____
18 UNITED STATES DISTRICT/MAGISTRATE JUDGE
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Certificate of Good Standing

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS

I, PHILIP J. DEVLIN, Clerk of the United States District Court, Western District of Texas, DO HEREBY CERTIFY that WILLIAM P. RAMEY III., Bar #24027643 was duly admitted to practice in said Court on 5/16/2001, and is in good standing as a member of the bar of said Court.

Signed at San Antonio, Texas on 4/9/2025.



PHILIP J. DEVLIN, Clerk

BY: _____

Philip J. Devlin

1 Jennifer Ishimoto (CA State Bar No. 211845)
2 Banie & Ishimoto LLP
3 2100 Geng Road
4 Suite 210
5 Palo Alto, California 94303
6 Telephone: 408-981-9472

7 *Attorneys for Plaintiffs*
8 Cooperative Entertainment, Inc.

9 **IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 Cooperative Entertainment, Inc.,

11 Plaintiff,

12 v.

13 Alibaba Cloud US LLC,

14 Defendant.
15
16
17

Case No.: 3:25-cv-01842-LJC

**DECLARATION OF BASAK
GUZEL IN SUPPORT OF
CORRECTED MOTION FOR PRO
HAC VICE ADMISSION OF
WILLIAM P. RAMEY, III**

18 I, Basak Guzel, declare as follows:

19 1. My name is Basak Guzel. I am over the age of 21. I have personal knowledge of the facts
20 contained herein, which are true and correct. If called as a witness, I could competently testify to
21 these statements.

22 2. I am licensed to practice law in Turkey and I am employed as a paralegal with Ramey LLP.

23 3. On April 14, 2025, I was asked to file a motion pro hac vice for William P. Ramey, III in
24 this matter. I sent a draft on April 14, 2025 to Ms. Jen Ishimoto and Mr. Ramey. Mr. Ramey
25 approved but said I needed to update the number of times he had applied for pro hac vice in the past
26
27
28

1 12 months and include the two orders from *Koji v. Renesas*. Ms. Ishimoto also reminded me to
2 update the pro hac vice number.

3 4. In preparing what was filed as Document No. 13, I neglected to include the two orders from
4 *Koji v. Renesas* even though Mr. Ramey had a firm meeting with all people employed by the firm
5 to discuss compliance with the two orders.

6 5. In addition, I neglected to update the number of times Mr. Ramey had been granted pro hac
7 vice in the prior 12 months. My understanding of the requirement at the time I filed was the number
8 of times pro hac had been granted in this case and therefore I left it at "0."

9 6. There was no deceptive intent on my part in putting "0."

10 7. I am filing a Corrected Motion Pro Hac Vice to address these issues. Our search of the filings
11 in this District revealed 5 granted pro hac vice applications and three filed but either denied or not
12 yet granted.
13

14 I declare under penalty of perjury under the laws of the United States of America, including 28
15 U.S.C. §1746, that the foregoing is true and correct.
16

17 Executed on April 17, 2025.

18 
19
20 Basak Guzel
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KOJI IP, LLC,
Plaintiff,

v.

RENESAS ELECTRONICS AMERICA,
INC.,
Defendant.

Case No. [24-cv-03089-PHK](#)

**ORDER REGARDING OSC AND
IMPOSING SANCTIONS ON RAMEY
FIRM LAWYERS**

Re: Dkt. 27

“**Every** member of the bar of this Court **and any attorney permitted to practice in this Court** under Civil L.R. 11 **must** . . . [b]e familiar with **and comply with** the standards of professional conduct required of members of the State Bar of California.” Civil L.R. 11-4 (emphasis added).

This is a patent infringement action. But this Order goes beyond patent law and touches on issues relevant to the rules of professional conduct for federal practitioners.

The Parties have consented to proceed before a Magistrate Judge for all purposes, including entry of a final judgment under 28 U.S.C. § 636(c). *See* Dkts. 10, 20. Now before the Court are responses and supplemental briefing from Plaintiff’s counsel from the Ramey law firm—Attorneys William P. Ramey, III, Susan S.Q. Kalra, and Jeffrey E. Kubiak—with respect to this Court’s Order to Show Cause (“OSC”). *See* Dkts. 28, 33, 38. The Court issued the OSC, on August 29, 2024, regarding why these attorneys should not be sanctioned under Federal Rule of Civil Procedure 11 and the Court’s inherent authority. [Dkt. 27]. In connection with Defendant’s motion for attorneys’ fees and sanctions, Defendant’s counsel brought to the Court’s attention

information indicating that Plaintiff's counsel may have been engaging in the unauthorized practice of law in this Court and/or aiding and abetting the unauthorized practice of law. [Dkt. 25 at 15]. The Court will issue a separate Order on that motion for fees and sanctions which are legally unrelated to the issues at hand. With regard to the OSC, the Court held a hearing on September 19, 2024. *See* Dkts. 30, 40. After post-hearing briefing, the matter is now deemed submitted and the Court turns to its analysis, starting with a brief summary of the relevant procedural history.

RELEVANT BACKGROUND

I. The Ramey Firms Filed and Voluntarily Dismissed Three Patent Infringement Lawsuits on Behalf of the Same Plaintiff Asserting the Exact Same Patent Against the Exact Same Defendant in Each Case.

On May 22, 2024, Plaintiff commenced this patent infringement action against Defendant. *See* Dkt. 1. This is the *third* lawsuit filed by one or all of these attorneys of the Ramey LLP firm on behalf of Koji IP, LLC; and in all three lawsuits, the Ramey firm (on behalf of its client Koji) accused Renesas Electronics America, Inc. of infringing U.S. Patent No. 10,790,703. *See* Complaint *Koji IP, LLC v. Renesas Electronics America, Inc.* ("Koji I"), No. 1:23-cv-01674-SKC (D. Colo. Jun. 30, 2023), ECF No. 1; Complaint, *Koji IP, LLC v. Renesas Electronics America, Inc.* ("Koji II"), No. 3:23-cv-05752-LJC (N.D. Cal. Nov. 8, 2023), ECF No. 1.

These Ramey firm lawyers filed voluntary dismissals of each of the first two *Koji v. Renesas* actions under Federal Rule of Civil Procedure 41. *See* Notice of Voluntary Dismissal, *Koji I*, No. 1:23-cv-01674-SKC (D. Colo. Sept. 6, 2023), ECF No. 18; Notice of Voluntary Dismissal, *Koji II*, No. 3:23-cv-05752-LJC (N.D. Cal. Jan. 30, 2024), ECF No. 12. These lawyers then filed the third *Koji v. Renesas* lawsuit (the case currently at hand) less than a year after voluntarily dismissing the second identical lawsuit. [Dkt. 1]. As with those two prior lawsuits, Plaintiff voluntarily dismissed this Third Action on June 12, 2024. [Dkt. 12]. When they filed the voluntary dismissal of this third *Koji v. Renesas* case, the lawyers here filed no explanation for their basis for filing the case in the first instance (despite the clear mandates of Federal Rule of Civil Procedure 41(a)(1)(B)).

II. Unauthorized Practice of Law.

On June 26, 2024, Defendant filed a motion for attorneys' fees and sanctions. [Dkt. 18]. Plaintiff opposed, and Defendant filed a reply. [Dkt. 24; Dkt. 25]. In the reply brief, Defendant raised the issue of the potential unauthorized practice of law by Plaintiff's counsel, Mr. Ramey. [Dkt. 25 at 15]. The Court heard oral argument on that motion on August 22, 2024. *See* Dkt. 26. Ms. Kalra (another Ramey firm lawyer) appeared as counsel for Plaintiff at that hearing, but the other Ramey firm lawyers identified on the pleadings (Mr. Ramey and Mr. Kubiak) did not appear. During oral argument, counsel for Defendant raised additional details on the alleged unauthorized practice of law by Mr. Ramey.

In this matter, Ms. Kalra—who during the relevant time period here and until recently was registered on the Court's electronic case filing ("ECF") system as counsel of record for Plaintiff—filed the complaint, civil cover sheet, report on the filing of a patent action, certificate of interested entities, and proposed summons. *See* Dkts. 1-5. The documents filed by Ms. Kalra in this case state that they originated from the law offices of Ramey LLP, 5020 Montrose Blvd., Suite 800, Houston, Texas 77006. Ms. Kalra is a member of the Northern District of California bar and an active member of the State Bar of California in good standing.

The body of the text of the complaint is signed by Ms. Kalra and identifies her to be Plaintiff's counsel ("Susan S.Q. Kalra (CA State Bar No. 16740)"). [Dkt. 1 at 7]. Ms. Kalra and Mr. Ramey *both* signed the jury demand on the final page of the complaint, and they are identified therein as "Attorneys for Plaintiff." *Id.* at 8. The front page of the complaint includes the names of these two attorneys and similarly identifies them as "Attorneys for Plaintiff." *Id.* at 1. The final page of the complaint is signed by these two attorneys but also includes the name and contact information for another attorney from the Ramey LLP firm, Mr. Kubiak (also there identified as one of the "Attorneys for Plaintiff"). *Id.* at 8. In the signature block on the last page of the complaint, both Mr. Ramey and Mr. Kubiak have the words "*pro hac vice* anticipated" next to their names along with Texas Bar numbers. *Id.* Mr. Ramey's signature appears not just on the complaint but also on several other documents filed in this case on behalf of Plaintiff. For example, the notice of voluntary dismissal in this case was signed by both Ms. Kalra and Mr.

1 Ramey—both identified as “Attorneys for Plaintiff”—and Mr. Ramey includes the “*pro hac vice*
2 anticipated” language after his name in that filing as well. [Dkt. 12 at 2].

3 By affixing “*pro hac vice* anticipated” next to their names in documents filed on the docket
4 since the earliest days of this case, Mr. Ramey and Mr. Kubiak appear to indicate their intent to
5 seek *pro hac vice* admission to this Court for this matter. The problem is that, to date, neither has
6 filed (and no attorney has filed) a motion on either Mr. Ramey’s or Mr. Kubiak’s behalf seeking
7 *pro hac* status in this case.

8 The record reveals that Mr. Ramey and Mr. Kubiak are out-of-state attorneys who are
9 acting as Plaintiff’s litigation counsel in this case. The information provided by Ms. Kalra at the
10 hearing on August 22, 2024 made clear that Mr. Ramey was engaged in the bulk of legal activity
11 in litigating this case. As noted, neither Mr. Ramey nor Mr. Kubiak are licensed to practice law in
12 California. Neither individual had sought, much less been granted, *pro hac vice* status in this case.
13 The docket shows plainly that there was no application for *pro hac vice* admission filed on their
14 behalf at the time of the filing of the complaint in this action, despite the instructions for the
15 timing of such a motion in the Northern District of California’s Civil Local Rules. *See* Civil L.R.
16 11-3(b).

17 As noted above, this is the third in a trilogy of cases filed by these attorneys on behalf of
18 this same Plaintiff alleging infringement by this same Defendant of the same asserted patent. The
19 Second Action was filed in this Court on November 8, 2023. *Koji II*, No. 3:23-cv-05752-LJC
20 (N.D. Cal. Nov. 8, 2023), ECF No. 1. The identification of Plaintiff’s counsel in the complaint in
21 that Second Action is identical in all material respects to the complaint in this Third Action: Ms.
22 Kalra and Mr. Ramey signed the complaint on the final page under the jury demand language; Ms.
23 Kalra signed the body of the complaint; both Ms. Kalra and Mr. Ramey are identified on the face
24 sheet and in the signature block on the final page as “Attorneys for Plaintiff;” and Mr. Kubiak is
25 further identified as one of the “Attorneys for Plaintiff” in the signature block on the final page.
26 Both Mr. Ramey and Mr. Kubiak list their Texas bar numbers and include the notation “*pro hac*
27 *vice* anticipated” in the signature block on the last page (and, for Mr. Ramey, on the face sheet) of
28 that *Koji II* complaint. No application for *pro hac vice* admission was ever filed on behalf of

1 either Mr. Ramey or Mr. Kubiak in the Second Action and certainly none was filed at the time of
2 the filing of the complaint in that case (again despite the strictures in the Civil Local Rules).

3 At the motion hearing on August 22, 2024, counsel for Defendant brought to the Court's
4 attention the fact that Mr. Ramey has appeared as counsel on pleadings in numerous cases in this
5 District prior to the current action. Based on the Court's further investigation, it became clear that
6 Mr. Ramey and Mr. Kubiak have regularly litigated numerous cases in the Northern District of
7 California without being members of the California bar or the Northern District of California's
8 Bar and without seeking *pro hac vice* admission in virtually all of these prior cases.

9 To date, the Court has identified at least **fifty-six other** civil actions in the Northern
10 District of California in which Mr. Ramey registered as an attorney of record for a party on the
11 docket for each of those cases, or at a minimum, signed the pleadings identifying himself to be the
12 plaintiff's counsel with "*pro hac vice*" status or "*pro hac vice anticipated*" language added. *See*
13 *CyboEnergy, Inc. v. Duracell Power Center, LLC*, No. 3:24-cv-08891-LJC (filed 12/10/24)
14 (attorney to be noticed); *WirelessWerx IP, LLC v. Zipline Int'l, Inc.*, No. 3:24-cv-08462-PHK
15 (filed 11/26/24) (attorney to be noticed); *Kephart Consulting, LLC v. AxxonSoft US, Inc.*, No.
16 4:24-cv-06770-KAW (filed 9/26/24) (lead attorney); *VDPP, LLC v. Roku, Inc.*, No. 5:24-cv-
17 05303-VKD (filed 8/16/24) (signed complaint with "*pro hac vice*"); *mCom IP, LLC v.*
18 *WestAmerica Bancorporation*, No. 3:24-cv-03609-SK (filed 6/14/24) (signed jury demand with
19 "*pro hac vice anticipated*"); *Autonomous IP, LLC v. Lyft, Inc.*, No. 3:24-cv-03348-RFL (filed
20 6/4/24) (attorney to be noticed); *Linfo IP, LLC v. Alibaba Grp. (U.S.) Inc.*, No. 3:24-cv-03098-RS
21 (filed 5/22/24) (lead attorney); *WFR IP, LLC v. Alibaba Grp. (U.S.) Inc.*, No. 3:24-cv-02179-TSH
22 (filed 4/12/24) (signed complaint with "*pro hac vice*"); *Linfo IP, LLC v. Third Love, Inc.*, No.
23 4:24-cv-02195-HSG (filed 4/12/24) (signed complaint with "*pro hac vice*"); *Flick Intelligence,*
24 *LLC v. HTC Am. Inc.*, No. 5:24-cv-02201-NC (filed 4/12/24) (signed complaint with "*pro hac vice*
25 *anticipated*"); *PacSec3, LLC v. Radware, Inc.*, No. 3:24-cv-02146-AGT (filed 4/10/24) (signed
26 complaint with "*pro hac vice anticipated*"); *VDPP, LLC v. Xiaomi USA, LLC*, No. 5:24-cv-01783-
27 EKL (filed 3/22/24) (lead attorney); *VDPP, LLC v. Vivitek Corp.*, No. 5:24-cv-01781-BLF (filed
28 3/22/24) (attorney to be noticed); *VDDP, LLC v. Motorola Mobility LLC*, No. 3:24-cv-01672-LJC

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(filed 3/18/24) (lead attorney); *WirelessWerx IP, LLC v. Lyft, Inc.*, No. 5:24-cv-01144-VKD (filed 2/26/24) (attorney to be noticed); *WirelessWerx IP, LLC v. Wing Aviation LLC*, No. 4:24-cv-01040-YGR (filed 2/21/24) (signed jury demand with “*pro hac vice* anticipated”); *SmartWatch MobileConcepts, LLC v. Google, LLC*, No. 3:24-cv-00937-RFL (filed 2/16/24) (lead attorney); *Missed Call, LLC v. Twilio Inc.*, No. 3:24-cv-00681-LB (filed 2/5/24) (lead attorney); *Missed Call, LLC v. RingCentral, Inc.*, No. 3:23-cv-06728-TLT (filed 12/31/23) (signed jury demand with “*pro hac vice* anticipated”); *Missed Call, LLC v. 8x8, Inc.*, No. 3:23-cv-06723-VC (filed 12/30/23) (signed jury demand with “*pro hac vice* anticipated”); *WirelessWerx IP, LLC v. OnFleet, Inc.*, No. 3:23-cv-06724-AMO (filed 12/30/23) (signed complaint and jury demand with “*pro hac vice* anticipated”); *WirelessWerx IP, LLC v. Life360, Inc.*, No. 3:23-cv-06725-AMO (filed 12/30/23) (signed complaint and jury demand with “*pro hac vice* anticipated”); *Mesa Digital, LLC v. Quanta Comp. USA, Inc.*, No. 3:23-cv-06711-VC (filed 12/29/23) (signed jury demand with “*pro hac vice* anticipated”); *CyboEnergy, Inc. v. N. Elec. Power Tech., Inc.*, No. 4:23-cv-06121-JST (filed 11/27/23) (signed complaint with “*pro hac vice* anticipated”); *Koji IP, LLC v. Energous Corp.*, No. 4:23-cv-05750-HSG (filed 11/8/23) (attorney to be noticed); *Vilox Techs., LLC v. Salesforce, Inc.*, No. 3:23-cv-05047-AMO (filed 10/2/23) (attorney to be noticed); *Fare Techs. LLC v. Lyft, Inc.*, No. 3:23-cv-04935-RFL (filed 9/26/23) (attorney to be noticed); *Flick Intelligence, LLC v. Google, LLC*, No. 3:23-cv-04803-TLT (filed 9/19/23) (attorney to be noticed); *HyperQuery, LLC v. LG Elecs. U.S.A., Inc.*, No. 3:23-cv-04725-JCS (filed 9/14/23) (attorney to be noticed); *VDPP, LLC v. Vivo, Inc.*, No. 5:23-cv-04241-NC (filed 8/18/23) (lead attorney); *Ask Sydney, LLC v. Google, LLC*, No. 3:23-cv-03955-JD (filed 8/8/23) (attorney to be noticed); *Safecast Ltd. v. Google, LLC*, No. 5:23-cv-03128-PCP (filed 6/23/23) (lead attorney); *Haley IP, LLC v. Motive Techs., Inc.*, No. 4:23-cv-02923-HSG (filed 6/14/23) (lead attorney); *ALD Social, LLC v. Apple, Inc.*, No. 3:23-cv-02695-JSC (filed 5/31/23) (attorney to be noticed); *Silent Comme’n, LLC v. Adobe, Inc.*, No. 3:23-cv-02696-TLT (filed 5/31/23) (attorney to be noticed); *Flick Intelligence LLC v. Niantic, Inc.*, No. 3:23-cv-02219-TLT (filed 5/5/23) (jury demand with “*pro hac vice* anticipated”); *WirelessWerx IP, LLC v. Google, LLC*, No. 4:23-cv-01852-JST (filed 4/17/23) (attorney to be noticed); *WirelessWerx IP, LLC v. Uber Techs., Inc.*, No. 3:23-cv-00990-AMO

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(filed 3/3/23) (attorney to be noticed); *Street Spirit IP LLC v. Meta Platforms, Inc. f/k/a Facebook, Inc.*, No. 3:23-cv-00879-WHA (filed 2/27/23) (signed complaint and jury demand with “*pro hac vice* anticipated”); *Street Spirit IP LLC v. Instagram et al.*, No. 3:23-cv-00883-WHA (filed 2/27/23) (signed complaint and jury demand with “*pro hac vice* anticipated”); *Street Spirit IP LLC v. LinkedIn Corp.*, No. 3:23-cv-00884-AMO (filed 2/27/23) (signed complaint and jury demand with “*pro hac vice* anticipated”); *ALD Social LLC v. Verkada, Inc.*, No. 3:23-cv-00049-JSC (filed 1/5/23) (attorney to be noticed); *Escapex IP LLC v. Google LLC*, No. 3:22-cv-08711-VC (filed 12/13/22) (attorney to be noticed); *ESIGNATURE SOFTWARE, LLC v. Adobe, Inc.*, No. 3:22-cv-05962-JSC (filed 10/12/22) (attorney to be noticed); *Traxcell Techs., LLC v. Google LLC*, No. 3:22-cv-04807-JSC (filed 8/22/22) (lead attorney); *Valjakka v. Netflix, Inc.*, No. 4:22-cv-01490-JST (filed 3/9/22) (lead attorney); *CyboEnergy, Inc. v. N. Elec. Power Tech., Inc.*, No. 3:21-cv-08534-SI (filed 11/2/21) (lead attorney); *Riggs Tech. Holdings, LLC v. Vagaro, Inc.*, No. 3:21-cv-07927-TSH (filed 10/8/21) (attorney to be noticed); *PacSec3, LLC v. Juniper Networks, Inc.*, No. 5:21-cv-07812-EJD (filed 10/6/21) (attorney to be noticed); *Apple Inc. v. Traxcell Techs. LLC*, No. 3:21-cv-06059-EMC (filed 8/5/21) (attorney to be noticed); *DATREC, LLC v. PrognoCIS, Inc.*, No. 3:21-cv-01595-JCS (filed 3/5/21) (lead attorney); *NetSoc, LLC v. LinkedIn Corp.*, No. 3:20-cv-00483-VC (filed 1/22/20) (lead attorney); *NetSoc, LLC v. Quora, Inc.*, No. 3:19-cv-06518-VC (filed 10/11/19) (lead attorney); *Global Equity Mgmt. (SA) Pty. Ltd. v. Alibaba.com Inc.*, No. 3:17-cv-02177-WHA (filed 4/19/17) (lead attorney); *Global Equity Mgmt. (SA) Pty. Ltd. v. eBay, Inc.*, No. 3:17-cv-02178-WHA (filed 4/19/17) (lead attorney); *Global Equity Mgmt. (SA) Pty. Ltd. v. Alibaba Grp. Holding, Ltd.*, No. 3:17-cv-02435-WHA (filed 4/28/17) (attorney of record).

Mr. Ramey sought *pro hac vice* admittance in **only ten of those fifty-six cases** (three of which occurred subsequent to the OSC hearing). See *WirelessWerx IP, LLC v. Zipline Int’l, Inc.*, No. 3:24-cv-08462-PHK (application filed 3/4/25 averring *pro hac vice* granted “4” times in the twelve months prior); *Kephart Consulting, LLC v. AxxonSoft US, Inc.*, No. 4:24-cv-06770-KAW (application filed on 2/24/25 averring “3” times in the twelve months prior); *CyboEnergy, Inc. v. Duracell Power Center, LLC*, No. 3:24-cv-08891-LJC (application filed 12/12/24 averring “0”

1 times in the twelve months prior); *WirelessWerx IP, LLC v. Lyft, Inc.*, No. 5:24-cv-01144-VKD
 2 (application filed on 4/29/24 averring “0” times in the twelve months prior); *CyboEnergy, Inc. v.*
 3 *N. Elec. Power Tech., Inc.*, No. 3:21-cv-08534-SI (application filed on 3/23/24 averring “1” time in
 4 the twelve months prior); *Safecast Ltd. v. Google, LLC*, No. 5:23-cv-03128-PCP (application filed
 5 on 8/3/23 averring “1” time in the twelve months prior); *Traxcell Techs., LLC v. Google LLC*, No.
 6 3:22-cv-04807-JSC (application filed on 10/28/22 averring “3” times in the twelve months prior);
 7 *Apple Inc. v. Traxcell Techs. LLC*, No. 3:21-cv-06059-EMC (application filed on 2/8/22 averring
 8 “n/a” times in the twelve months prior); *DATREC, LLC v. PrognoCIS, Inc.*, No. 3:21-cv-01595-
 9 JCS (application filed on 4/14/21); *NetSoc, LLC v. Quora, Inc.*, No. 3:19-cv-06518-VC
 10 (application filed on 11/26/19).

11 The Court has likewise identified at least **seventeen other** civil actions in the Northern
 12 District of California (not including the Second Action or this Third Action) in which Mr. Kubiak
 13 registered as an attorney of record for a party on the docket for each of those cases, or at a
 14 minimum, is designated in the pleadings as a party’s counsel with “*pro hac vice*” or “*pro hac vice*
 15 anticipated” status language added. See *VDPP, LLC v. Roku, Inc.*, No. 5:24-cv-05303-VKD (filed
 16 8/16/24) (“*pro hac vice*”); *mCom IP, LLC v. WestAmerica Bancorporation*, No. 3:24-cv-03609-
 17 SK (filed 6/14/24) (“*pro hac vice* anticipated”); *Autonomous IP, LLC v. Lyft, Inc.*, No. 3:24-cv-
 18 03348-RFL (filed 6/4/24) (lead attorney); *Linfo IP, LLC v. Alibaba Grp. (U.S.) Inc.*, No. 3:24-cv-
 19 03098-RS (filed 5/22/24) (“*pro hac vice* anticipated”); *WFR IP, LLC v. Alibaba Grp. (U.S.) Inc.*,
 20 No. 3:24-cv-02179-TSH (filed 4/12/24) (“*pro hac vice*”); *Linfo IP, LLC v. Third Love, Inc.*, No.
 21 4:24-cv-02195-HSG (filed 4/12/24) (“*pro hac vice*”); *VDPP, LLC v. Xiaomi USA, LLC*, No. 5:24-
 22 cv-01783-EKL (filed 3/22/24) (“*pro hac vice*”); *WirelessWerx IP, LLC v. Wing Aviation LLC*, No.
 23 4:24-cv-01040-YGR (filed 2/21/24) (“*pro hac vice* anticipated”); *SmartWatch MobileConcepts,*
 24 *LLC v. Google, LLC*, No. 3:24-cv-00937-RFL (filed 2/16/24) (attorney to be noticed); *Missed*
 25 *Call, LLC v. RingCentral, Inc.*, No. 3:23-cv-06728-TLT (filed 12/31/23) (“*pro hac vice*
 26 anticipated”); *Missed Call, LLC v. 8x8, Inc.*, No. 3:23-cv-06723-VC (filed 12/30/23) (“*pro hac*
 27 *vice* anticipated”); *WirelessWerx IP, LLC v. OnFleet, Inc.*, No. 3:23-cv-06724-AMO (filed
 28 12/30/23) (“*pro hac vice* anticipated”); *WirelessWerx IP, LLC v. Life360, Inc.*, No. 3:23-cv-06725-

1 AMO (filed 12/30/23) (“*pro hac vice* anticipated”); *Koji IP, LLC v. Energous Corp.*, No. 4:23-cv-
 2 05750-HSG (filed 11/8/23) (“*pro hac vice* anticipated”); *Flick Intelligence, LLC v. Google, LLC*,
 3 No. 3:23-cv-04803-TLT (filed 9/19/23) (lead attorney); *Haley IP, LLC v. Motive Techs., Inc.*, No.
 4 4:23-cv-02923-HSG (filed 6/14/23) (lead attorney); *Silent Commc’n, LLC v. Adobe, Inc.*, No.
 5 3:23-cv-02696-TLT (filed 3/31/23) (attorney to be noticed).

6 Mr. Kubiak admits that he sought *pro hac* admission in this Court **only once** ever. [Dkt.
 7 28-15 at ¶ 11 (“I acknowledge that I filed only a single *pro hac vice* application.”)]; see
 8 *SmartWatch MobileConcepts, LLC v. Google, LLC*, No. 3:24-cv-00937-RFL (application filed on
 9 5/22/24 averring that Mr. Kubiak had been granted *pro hac* admission by the Court “0” times in
 10 the twelve months preceding the application). In that application for *pro hac vice* admission, Mr.
 11 Kubiak identifies Ms. Kalra as his local co-counsel.

12 The Court has identified at least **forty-five other** patent cases in the Northern District of
 13 California in which Ms. Kalra is identified as an attorney of record on the docket along with either
 14 Mr. Ramey or Mr. Kubiak, where one or both of them are listed as counsel of record or in the
 15 pleadings or filings as plaintiff’s counsel with “*pro hac vice*” or “*pro hac vice* anticipated” status.
 16 See *Kephart Consulting, LLC v. AxxonSoft US, Inc.*, No. 4:24-cv-06770-KAW (filed 9/26/24)
 17 (Ramey listed as Lead Attorney on docket and Ms. Kalra listed as local counsel in original *pro hac*
 18 *vice* application); *VDPP, LLC v. Roku, Inc.*, No. 5:24-cv-05303-VKD (filed 8/16/24) (Ramey
 19 signed complaint with “*pro hac vice*,” Kubiak identified as “*pro hac vice*”); *mCom IP, LLC v.*
 20 *WestAmerica Bancorporation*, No. 3:24-cv-03609-SK (filed 6/14/24) (Ramey signed jury demand
 21 with “*pro hac vice* anticipated;” Kubiak listed as “*pro hac vice* anticipated”); *Autonomous IP, LLC*
 22 *v. Lyft, Inc.*, No. 3:24-cv-03348-RFL (filed 6/4/24) (Ramey listed as attorney to be noticed;
 23 Kubiak identified as lead attorney); *Linfo IP, LLC v. Alibaba Grp. (U.S.) Inc.*, No. 3:24-cv-03098-
 24 RS (filed 5/22/24) (Ramey listed as lead attorney; Kubiak listed as “*pro hac vice* anticipated”);
 25 *WFR IP, LLC v. Alibaba Grp. (U.S.) Inc.*, No. 3:24-cv-02179-TSH (filed 4/12/24) (Ramey signed
 26 complaint with “*pro hac vice*,” Kubiak listed as “*pro hac vice*”); *Linfo IP, LLC v. Third Love, Inc.*,
 27 No. 4:24-cv-02195-HSG (filed 4/12/24) (Ramey signed complaint with “*pro hac vice*,” Kubiak
 28 listed as “*pro hac vice*”); *Flick Intelligence, LLC v. HTC Am. Inc.*, No. 5:24-cv-02201-NC (filed

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4/12/24) (Ramey signed complaint with “*pro hac vice* anticipated”); *PacSec3, LLC v. Radware, Inc.*, No. 3:24-cv-02146-AGT (filed 4/10/24) (Ramey signed complaint with “*pro hac vice* anticipated”); *VDPP, LLC v. Xiaomi USA, LLC*, No. 5:24-cv-01783-EKL (filed 3/22/24) (Ramey lead attorney; Kubiak listed as “*pro hac vice*”); *VDPP, LLC v. Vivitek Corp.*, No. 5:24-cv-01781-BLF (filed 3/22/24) (Ramey attorney to be noticed); *VDDP, LLC v. Motorola Mobility LLC*, No. 3:24-cv-01672-LJC (filed 3/18/24) (Ramey lead attorney); *WirelessWerx IP, LLC v. Lyft, Inc.*, No. 5:24-cv-01144-VKD (filed 2/26/24) (Ramey attorney to be noticed); *WirelessWerx IP, LLC v. Wing Aviation LLC*, No. 4:24-cv-01040-YGR (filed 2/21/24) (Ramey signed jury demand with “*pro hac vice* anticipated;” Kubiak listed as “*pro hac vice* anticipated”); *SmartWatch MobileConcepts, LLC v. Google, LLC*, No. 3:24-cv-00937-RFL (filed 2/16/24) (Ramey lead attorney; Kubiak listed as attorney to be noticed); *Missed Call, LLC v. Twilio Inc.*, No. 3:24-cv-00681-LB (filed 2/5/24) (Ramey lead attorney); *Missed Call, LLC v. RingCentral, Inc.*, No. 3:23-cv-06728-TLT (filed 12/31/23) (Ramey signed jury demand with “*pro hac vice* anticipated;” Kubiak listed as “*pro hac vice* anticipated”); *Missed Call, LLC v. 8x8, Inc.*, No. 3:23-cv-06723-VC (filed 12/30/23) (Ramey signed jury demand with “*pro hac vice* anticipated;” Kubiak listed as “*pro hac vice* anticipated”); *WirelessWerx IP, LLC v. OnFleet, Inc.*, No. 3:23-cv-06724-AMO (filed 12/30/23) (Ramey signed complaint and jury demand with “*pro hac vice* anticipated;” Kubiak listed as “*pro hac vice* anticipated”); *WirelessWerx IP, LLC v. Life360, Inc.*, No. 3:23-cv-06725-AMO (filed 12/30/23) (Ramey signed complaint and jury demand with “*pro hac vice* anticipated;” Kubiak listed as “*pro hac vice* anticipated”); *Mesa Digital, LLC v. Quanta Comp. USA, Inc.*, No. 3:23-cv-06711-VC (filed 12/29/23) (Ramey signed jury demand with “*pro hac vice* anticipated”); *CyboEnergy, Inc. v. N. Elec. Power Tech., Inc.*, No. 4:23-cv-06121-JST (filed 11/27/23) (Ramey signed complaint with “*pro hac vice* anticipated”); *Koji IP, LLC v. Energous Corp.*, No. 4:23-cv-05750-HSG (filed 11/8/23) (Ramey attorney to be noticed; Kubiak listed as “*pro hac vice* anticipated”); *Vilox Techs., LLC v. Salesforce, Inc.*, No. 3:23-cv-05047-AMO (filed 10/2/23) (Ramey attorney to be noticed); *Fare Techs. LLC v. Lyft, Inc.*, No. 3:23-cv-04935-RFL (filed 9/26/23) (Ramey attorney to be noticed); *Flick Intelligence, LLC v. Google, LLC*, No. 3:23-cv-04803-TLT (filed 9/19/23) (Ramey attorney to be noticed; Kubiak listed as lead attorney);

1 *VDPP, LLC v. Vivo, Inc.*, No. 5:23-cv-04241-NC (filed 8/18/23) (Ramey lead attorney); *Safecast*
 2 *Ltd. v. Google, LLC*, No. 5:23-cv-03128-PCP (filed 6/23/23) (Ramey lead attorney); *Haley IP,*
 3 *LLC v. Motive Techs., Inc.*, No. 4:23-cv-02923-HSG (filed 6/14/23) (Ramey on brief “*pro hac vice*
 4 *anticipated*”; Kubiak lead attorney); *ALD Social, LLC v. Apple, Inc.*, No. 3:23-cv-02695-JSC
 5 (filed 5/31/23) (Ramey attorney to be noticed); *Silent Commc’n, LLC v. Adobe, Inc.*, No. 3:23-cv-
 6 02696-TLT (filed 5/31/23) (Ramey attorney to be noticed; Kubiak listed as lead attorney); *Flick*
 7 *Intelligence LLC v. Niantic, Inc.*, No. 3:23-cv-02219-TLT (filed 5/5/23) (Ramey signed jury
 8 demand with “*pro hac vice anticipated*”); *Street Spirit IP LLC v. Meta Platforms, Inc. f/k/a*
 9 *Facebook, Inc.*, No. 3:23-cv-00879-WHA (filed 2/27/23) (Ramey signed complaint and jury
 10 demand with “*pro hac vice anticipated*”); *Street Spirit IP LLC v. Instagram et al.*, No. 3:23-cv-
 11 00883-WHA (filed 2/27/23) (Ramey signed complaint and jury demand with “*pro hac vice*
 12 *anticipated*”); *Street Spirit IP LLC v. LinkedIn Corp.*, No. 3:23-cv-00884-AMO (filed 2/27/23)
 13 (Ramey signed complaint and jury demand with “*pro hac vice anticipated*”); *ALD Social LLC v.*
 14 *Verkada, Inc.*, No. 3:23-cv-00049-JSC (filed 1/5/23) (Ramey attorney to be noticed); *Escapex IP*
 15 *LLC v. Google LLC*, No. 3:22-cv-08711-VC (filed 12/13/22) (Ramey attorney to be noticed);
 16 *ESIGNATURE SOFTWARE, LLC v. Adobe, Inc.*, No. 3:22-cv-05962-JSC (filed 10/12/22) (Ramey
 17 attorney to be noticed); *Traxcell Techs., LLC v. Google LLC*, No. 3:22-cv-04807-JSC (filed
 18 8/22/22) (Ramey lead attorney); *Valjakka v. Netflix, Inc.*, No. 4:22-cv-01490-JST (filed 3/9/22)
 19 (Ramey lead attorney); *CyboEnergy, Inc. v. N. Elec. Power Tech., Inc.*, No. 3:21-cv-08534-SI
 20 (filed 11/2/21) (Ramey lead attorney); *Riggs Tech. Holdings, LLC v. Vagaro, Inc.*, No. 3:21-cv-
 21 07927-TSH (filed 10/8/21) (Ramey attorney to be noticed); *Apple Inc. v. Traxcell Techs. LLC*, No.
 22 3:21-cv-06059-EMC (filed 8/5/21) (Ramey attorney to be noticed); *NetSoc, LLC v. Quora, Inc.*,
 23 No. 3:19-cv-06518-VC (filed 10/11/19) (Ramey lead attorney).

24 As noted above, Mr. Ramey has only filed applications for *pro hac vice* admission in ten of
 25 these cases (the majority of which were filed *after* the OSC issued in this case), and Mr. Kubiak
 26 has only filed one *pro hac vice* application in this Court ever. Ms. Kalra was listed as local
 27 counsel for Mr. Ramey and Mr. Kubiak in their *pro hac vice* applications, including in the most
 28 recent *Kephart Consulting* case, where the original *pro hac vice* application was denied, and a

1 renewed application was filed listing a different local counsel (apparently after Ms. Kalra
2 separated from the Ramey law firm). *See* No. 24-cv-06770-KAW, ECF Nos. 26, 29.

3 At the August 22, 2024 hearing, counsel for Defendant brought to the Court's attention
4 that Mr. Ramey has also appeared as counsel without obtaining *pro hac* admission in numerous
5 cases in the Central District of California. Based on this Court's investigation thus far, Mr. Ramey
6 has appeared as counsel in at least **thirty-seven** cases in the Central District of California (thirty-
7 three of which were filed in 2022 or later) and Mr. Kubiak has appeared as counsel in at least **ten**
8 of those cases. It appears that Mr. Ramey and Mr. Kubiak have similarly failed to seek *pro hac*
9 *vice* admission in many of those cases despite receiving notices from that court that their *pro hac*
10 *vice* applications were due, and they appear to have continued to litigate those cases even after
11 receiving such notices. *See, e.g.*, Notice of Pro Hac Vice Application Due, *VDPP, LLC v. Mazda*
12 *Motor of Am. Inc.*, No. 8:24-cv-00571-JWH-ADS (C.D. Cal. Mar. 18, 2004), ECF No. 11.

13 This is not the first time Mr. Ramey, or his law firm, have been faced with sanctions for
14 improper conduct involving failure to follow local rules or procedures on *pro hac vice* admission.
15 *See Nimitz Techs. LLC v. CNET Media, Inc.*, No. 21-1247-CFC, 2022 WL 17338396, at *7-8 (D.
16 Del. Nov. 30, 2022) (noting that, because "Mr. Ramey chose not to appear" at a court-ordered
17 hearing regarding his failure to obtain new local counsel to sponsor his *pro hac* admission, the
18 court "found that Mr. Ramey's willful disregard . . . warranted sanctions"). More recently, on
19 March 11, 2025, a Magistrate Judge in the Southern District of Florida issued a Report and
20 Recommendation on a motion for attorney fees and sanctions in another patent infringement
21 action in which Mr. Ramey and his law firm represented the plaintiff. *mCom IP, LLC v. City Nat'l*
22 *Bank of Fla.*, No. 23-23427-Civ-Scola/Lett, 2024 U.S. Dist. LEXIS 43754 (S.D. Fla. Mar. 11,
23 2025). There, the court noted conduct which is shockingly similar to the conduct at issue here:
24 "[f]or the duration of the litigation," a local attorney, Victoria Briant, had been "the only counsel
25 of record" for the plaintiff, even though "the case was actually litigated by [the plaintiff's] national
26 lead counsel, . . . Attorney William Ramey from RAMEY LLC, a law firm based in Houston,
27 Texas, [who] never entered an appearance or moved for *pro hac vice* admission." *Id.* at *3-4. In
28 recommending that sanctions be imposed against the plaintiff's counsel, the *mCom* court explicitly

1 admonished Mr. Ramey and the local attorney for their conduct, noting that “[d]espite failing to
2 move for *pro hac vice* admission or otherwise appearing in this matter, Attorney Ramey
3 functioned in a primary role spearheading the interactions with Defendant’s counsel, while Briant
4 took a back-seat.” *Id.* at *14-15.

5 These sanctions involving similar violations of *pro hac vice* rules are better viewed within
6 a larger context of a pattern of sanctions ordered against Mr. Ramey, Ms. Kalra, and the Ramey
7 firm (and its clients) across a range of issues and cases nationwide. *See, e.g., ESCAPEX IP, LLC*
8 *v. GOOGLE LLC*, No. 23-CV-10839 (VSB) (VF), 2025 WL893739, at *10-11 (S.D.N.Y. Mar. 24,
9 2025) (“As other courts have noted, Plaintiff’s counsel has a track record of commencing
10 ‘frivolous suits’ against ‘tech giant[s]’ like Google, for the purpose of ‘forc[ing] a modest
11 settlement . . . on the assumption that the tech giant will prefer to capitulate than fight back. . . .
12 The conduct by Plaintiff’s counsel’s here is part of a long pattern of similar behavior that warrants
13 deterrence through an award under § 1927.”); *EscapeX IP LLC v. Google LLC*, No. 22-cv-08711-
14 VC, 2024 WL 557729, at *1 (N.D. Cal. Feb. 12, 2024) (“Here, the attorneys for EscapeX acted
15 recklessly by filing a frivolous Rule 59(e) motion that unreasonably multiplied the proceedings of
16 this case. . . . Therefore, Google is entitled to reimbursement of its reasonable attorneys’ fees and
17 costs in the amount of \$63,525.30 to be levied jointly and severally against EscapeX’s attorneys,
18 William P. Ramey, III and Susan S.Q Kalra.”); *VDPP, LLC v. Volkswagen Grp. of Am., Inc.*, No.
19 H-23-2961, 2024 WL 3856797, at *2 (S.D. Tex. Aug. 13, 2024) (“VDPP’s misconduct infected
20 the entire litigation. It is entirely fitting to require VDPP to pay all of Volkswagen’s fees to defeat
21 a case that never should have been filed.”); *WPEM, LLC v. SOTI Inc.*, No. 2:18-CV-00156-JRG,
22 2020 WL 555545, at *7 (E.D. Tex. Feb. 4, 2020) (“In sum, the Court finds that WPEM wholly
23 failed to conduct an invalidity and enforceability pre-filing investigation and ignored obvious
24 issues that should have been readily apparent to it had it adequately [sic] them as part of its own
25 preparation for litigation. WPEM’s failures cause this case to stand out from an ordinary case and
26 warrant a fee recovery by SOTI.”).

27 The Ramey law firm’s client base and approach to the practice of law is no secret to those
28 in the patent litigation community—the firm files multitudes of lawsuits on behalf of patent

1 assertion entities and typically settles them quickly for relatively low value amounts. *See* Lauren
 2 Castle, *Lawyer Big Tech Loves to Hate Wears Backlash as Badge of Honor*, BLOOMBERG LAW,
 3 [https://news.bloomberglaw.com/us-law-week/lawyer-big-tech-loves-to-hate-wears-backlash-as-](https://news.bloomberglaw.com/us-law-week/lawyer-big-tech-loves-to-hate-wears-backlash-as-badge-of-honor)
 4 [badge-of-honor](https://news.bloomberglaw.com/us-law-week/lawyer-big-tech-loves-to-hate-wears-backlash-as-badge-of-honor) (last visited March 17, 2025). According to a recent database search, the Ramey
 5 firm appears to be counsel of record in over 150 pending and active patent cases nationwide. *See*
 6 Number of Active Patent Cases Involving Ramey Firm as Counsel of Record, Docket Navigator,
 7 https://search.docketnavigator.com/patent/search/patent_cases (search using term “Ramey” in
 8 “Firms” field, select “Ramey” search term, follow hyperlink to View Results, select “Active”
 9 option under “Case Status” Filter).

10 It is quite likely that the volume-focused and quick-settlement nature of the Ramey law
 11 firm’s practice motivated these attorneys’ decisions to largely avoid filing *pro hac vice*
 12 applications and to seek *pro hac* admission in only a handful of cases. Mr. Ramey admitted as
 13 much at the OSC hearing. The *pro hac* admission fee in this District is \$328 for each attorney in
 14 each case—multiply that number even by one hundred cases for one attorney and that obviously
 15 yields a significant cost to a firm and its clients. Mr. Ramey himself stated at the OSC hearing
 16 that the motivation to avoid these costs is particularly acute given that so many of the Ramey
 17 firm’s cases settle in the relatively early stages of litigation. By avoiding these *pro hac* fees over
 18 the years, the Ramey law firm has saved a substantial amount of money, but at a cost to the Court,
 19 the public, and the profession.

20 DISCUSSION

21 **I. Rule 11 Violations**

22 As summarized above, on June 26, 2024, Defendant filed a motion seeking attorneys’ fees
 23 as a prevailing party under 35 U.S.C. § 285, as well as seeking sanctions under 28 U.S.C. § 1927
 24 and the Court’s inherent powers. [Dkt. 18]. While that motion references Federal Rule of Civil
 25 Procedure 11, the basis for the request for fees rests on § 285 and the basis for the request for
 26 sanctions rests on § 1927 and the Court’s inherent powers.

27 Based on the Parties’ briefing on that motion as well as the representations of counsel
 28 during the August 22, 2024 hearing, the Court grew concerned of the possibility that the pre-suit

1 investigation conducted by Plaintiff’s counsel prior to filing the complaint in this Third Action
2 was so inadequate that potential Rule 11 sanctionable conduct could be implicated. Because
3 Defendant did not seek sanctions under Rule 11 (and thus, did not follow the safe harbor
4 procedures), and because the Court raised the issue of the potential for Rule 11 sanctions *sua*
5 *sponte*, the Court provided Plaintiff and its counsel, the Ramey lawyers, notice and a reasonable
6 opportunity to respond as to why they should not be sanctioned under Rule 11 for the conduct
7 detailed at length in the OSC. *See* Fed. R. Civ. P. 11(c)(3); *Mellow v. Sacramento Cnty.*, 365 F.
8 App’x 57 (9th Cir. Jan. 25, 2010). “Rule 11 sanctions may be imposed only in response to claims
9 that are not ‘warranted by existing law or by a nonfrivolous argument for the extension,
10 modification or reversal of existing law.’” *United Nat. Ins. Co. v. R&D Latex Corp.*, 242 F.3d
11 1102, 1115-16 (9th Cir. 2001) (quoting Fed. R. Civ. P. 11(b)(2)). “This standard is applied with
12 particular stringency where, as here, the sanctions are imposed on the court’s own motion[;] . . .
13 *sua sponte* sanctions ‘will ordinarily be imposed only in situations that are akin to a contempt of
14 court.’” *Id.* (quoting *Barber v. Miller*, 146 F.3d 707, 711 (9th Cir. 1999)) (alteration omitted).

15 As discussed above, the Court issued the OSC on August 29, 2024, ordering the Ramey
16 law firm attorneys to respond and to show cause why they should not be sanctioned pursuant to
17 Rule 11 and the Court’s inherent authority. [Dkt. 27]. The fifteen-page OSC discusses in detail
18 the conduct at issue and explicitly provides the Ramey lawyers notice and an opportunity to
19 respond as to why they should not be sanctioned under Rule 11 and the Court’s inherent authority
20 for such conduct. *See* Fed. R. Civ. P. 11(c)(B).

21 The Ramey firm filed their response to the OSC on September 12, 2024, including a brief,
22 declarations from each of the three Ramey lawyers at issue, a declaration from a technical
23 consultant working with the Ramey firm on this case, a declaration from the manager of Plaintiff
24 Koji, and several exhibits. [Dkt. 28]. The Court conducted a hearing on the OSC on September
25 19, 2024, at which all three Ramey firm lawyers appeared. [Dkt. 30]. At the hearing, the Ramey
26 lawyers requested leave to submit supplemental legal authority which the Court granted. [Dkt.
27 32]. The Ramey lawyers filed their supplemental briefing on September 20, 2024. [Dkt. 33].

28 Rule 11 requires at least one counsel of record to sign every pleading, written motion, or

1 other paper presented to the Court. Fed. R. Civ. P. 11(a). “By presenting to the court a pleading,
2 written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an
3 attorney . . . certifies” that the paper is not “frivolous” or meant to further “any improper purpose”
4 and that it was submitted “after an inquiry reasonable under the circumstances.” Fed. R. Civ. P.
5 11(b).

6 Rule 11 authorizes the Court to impose sanctions on an attorney who fails to conduct a
7 reasonable pre-filing inquiry if the paper at issue lacks merit or is otherwise frivolous. *In re*
8 *Keegan Mgmt. Co. Sec. Litig.*, 78 F.3d 431, 434 (9th Cir. 1996). Sanctions imposed under Rule 11
9 are limited to that which is sufficient to deter “repetition of such conduct or comparable conduct
10 by others similarly situated.” Fed. R. Civ. P. 11(c)(2). Rule 11 sanctions may include
11 nonmonetary directives, orders to pay penalties to the court, and monetary awards for “reasonable
12 attorney’s fees and other expenses directly resulting from the violation.” Fed. R. Civ. P. 11(c)(4).
13 The Court has wide and substantial discretion regarding the application of Rule 11 sanctions. *See*
14 *Hudson v. Moore Bus. Forms, Inc.*, 836 F.2d 1156, 1163 (9th Cir. 1987) (“The district court has
15 wide discretion in determining the appropriate sanction for a Rule 11 violation.”); Fed. R. Civ. P.
16 11(b)(3).

17 The standard for determining whether a paper is frivolous is one of objective
18 reasonableness at the time of the attorney’s signature. *Christian v. Mattel, Inc.*, 286 F.3d 1118,
19 1127 (9th Cir. 2002). “Frivolous filings are ‘those that are both baseless and made without a
20 reasonable and competent inquiry.’” *Est. of Blue v. Cnty. of L.A.*, 120 F.3d 982, 985 (9th Cir.
21 1997) (quoting *Buster v. Griesen*, 104 F.3d 1186, 1190 (9th Cir. 1997)). Before imposing Rule 11
22 sanctions, the Court “must conduct a two-prong inquiry to determine: (1) whether the complaint is
23 legally or factually ‘baseless’ from an objective perspective, and (2) if the attorney has conducted
24 ‘a reasonable and competent inquiry’ before signing and filing it.” *Christian*, 286 F.3d at 1127.

25 The Ramey lawyers admit that the First Action filed in Colorado (*Koji I*) was identical to
26 the Second Action filed in this Court (*Koji II*). [Dkt. 28 at 16 (“Koji admits that it refiled the same
27 infringement allegations it previously dismissed in Colorado in the Northern District of
28 California.”)]. They admit that they voluntarily dismissed the *Koji I* lawsuit under Rule 41 by

1 notice. *Id.* at 15. And they admit that they voluntarily dismissed the identical *Koji II* lawsuit
2 under Rule 41 by notice. *Id.* at 16-17. By operation of Rule 41(a)(1)(B), “if the plaintiff
3 previously dismissed any federal- or state-court action based on or including the same claim, a
4 notice of dismissal operates as an adjudication on the merits.” Because Koji’s lawyers previously
5 dismissed the same claim in *Koji I*, the notice of dismissal in *Koji II* operated as an adjudication on
6 the merits. The issue then is what justification the Ramey lawyers had for filing the exact same
7 lawsuit a third time, after the two previous dismissals, and what pre-filing inquiry those lawyers
8 conducted to determine whether such filing was warranted before launching this third lawsuit.

9 At the August 22, 2024 hearing, Ms. Kalra was unable to identify any pre-filing inquiry by
10 herself or any other Ramey LLP attorney (much less reasonable inquiry supported by law)
11 regarding Rule 41’s effect here, and regarding whether or not the complaint in this Third Action
12 was warranted by existing law or any other permissible basis under Rule 11. Ms. Kalra was
13 equally unable to identify whether any of the Ramey LLP lawyers performed any pre-filing
14 inquiry as to the impact of the dismissal filed in the Second Action prior to the filing of that notice
15 of dismissal. At the hearing and in the briefing on the motion for fees and sanctions, Plaintiff’s
16 counsel was unable to cite any law of which they were aware prior to filing the complaint in this
17 Third Action which reasonably supported the position that the dismissals of the complaints in the
18 previous two identical actions avoided an adjudication on the merits under Rule 41.

19 Similarly, in response to the OSC, the Ramey lawyers failed to cite any authority which
20 would have supported the filing of the complaint in this Third Action in light of Rule 41, either
21 based on existing law or any other permissible bases under Rule 11. The response to the OSC
22 argues that “William Ramey relied on his over 20 years of experience in refiling the lawsuit” for
23 this Third Action. [Dkt. 28 at 18]. Mr. Ramey’s personal experience is not legal authority for
24 avoiding the impact of the previous two dismissals under Rule 41.

25 In the response briefing, Plaintiff’s counsel argues that “Rule 41 specifically allows a
26 lawsuit to be filed more than twice if there is . . . ‘a persuasive explanation for the course of
27 litigation.’” *Id.* There is no such “specific” language allowing a lawsuit to be filed a third time in
28 Rule 41. The response further argues that “Ramey knew there were exceptions that allowed the

1 refiling of a complaint, in cases where there is ‘a persuasive explanation for the course of
 2 litigation.’” *Id.* (citing *Milkcrate Athletics, Inc. v. Adidas Am., Inc.*, 619 F. Supp. 3d 1009 (C.D.
 3 Cal. 2022)). The *Milkcrate* case cited by the Ramey lawyers is wholly inapposite to Rule 11 and
 4 does *not* discuss an exception to the dispositive effect of the two prior dismissals under Rule 41.

5 In *Milkcrate*, there was no issue presented regarding potential sanctions under Rule 11.
 6 Instead, the issue there was whether the Court should award costs and fees to the defendant under
 7 Federal Rule of Civil Procedure 41(d). 619 F. Supp. 3d at 1024-28. Indeed, the quote from
 8 *Milkcrate* cited by the Ramey lawyers in the response to the OSC is taken out of context—the full
 9 text of the sentence reads: “An ‘award under Rule 41(d) is appropriate’ where ‘the [movant] has
 10 failed to present a persuasive explanation for the course of litigation’ and the nonmovant shows it
 11 has ‘incurred needless expenditures as a result.’” *Id.* at 1025 (citation omitted).

12 To reiterate, *Milkcrate* was concerned with whether to award fees and costs to the
 13 defendant under Rule 41(d). *Milkcrate* does not concern whether to impose court-ordered
 14 sanctions *sua sponte* under Rule 11(c)(3) (which would be payable to the Court)—and the Ninth
 15 Circuit has recognized the important distinction between sanctions to be awarded based on a
 16 motion of a party versus sanctions imposed based on a court’s initiative under Rule 11. *Barber*,
 17 146 F.3d at 711. There is simply no discussion in *Milkcrate* which sets forth any kind of
 18 “exception” under Rule 41(a)(1)(B). There is no discussion of a rule in *Milkcrate* which would
 19 “specifically” allow for the filing of a duplicative third complaint which asserts the same cause of
 20 action by the same plaintiff against the same defendant involving the same patent (after two
 21 previous voluntary dismissals). There is no discussion in *Milkcrate* of Rule 41(a)(1)(B), of any
 22 “exception” under that rule, or of any impact of the ruling on how to analyze Rule 11 *sua sponte*
 23 sanctions.

24 Further, even if the “persuasive explanation for the course of litigation” rule in *Milkcrate*
 25 for avoiding costs under Rule 41(d) was somehow analogized to or extended by implication to
 26 Rule 41(a)(1)(B), the application of that rule in *Milkcrate* is contrary to the Ramey lawyers’
 27 response. In *Milkcrate*, the court awarded costs to the defendant because the plaintiff filed a
 28 second action after dismissing a previous action, where the allegations in both actions concerned

1 “the same operative facts and include the same copyright infringement claim at issue[.]” 619 F.
2 Supp. 3d at 1025-26. That same situation exists here—the Ramey lawyers filed this Third Action
3 even after dismissing the previous two cases, even though all three cases concern the same
4 operative facts and include the same patent infringement claims. If anything, *Milkcrate* instructs
5 that an award of costs is appropriate in the analogous factual situation as is present here.

6 At the OSC hearing, Mr. Ramey admitted that *Milkcrate* is not legal support for an
7 exception under Rule 41(a)(1)(B) for filing a third complaint after previously dismissing two
8 identical or substantially identical prior complaints. Mr. Ramey also admitted that *Milkcrate* is
9 not support for the assertion that he somehow “knew” based on his experience of any such
10 exception to Rule 41 that would have allowed or excused the filing of the third complaint here.
11 That is, Mr. Ramey did not analyze *Milkcrate* as part of his prefiling diligence before filing the
12 third complaint here. Indeed, in their declarations in response to the OSC, the Ramey law firm
13 attorneys simply refer to their unexplained “opinion” that the dismissal of the First Action in
14 Colorado somehow did not count for purposes of Rule 41, that based on their years of experience
15 there are unidentified “exceptions” to Rule 41, and that they “believed” the circumstances allowed
16 them to refile the complaint. [Dkt. 28-1 at ¶ 12; Dkt. 28-2 at ¶ 17; Dkt. 28-3 at ¶ 20].

17 The response to the OSC only cites *Milkcrate* to support the position that an “exception” to
18 Rule 41(a)(1)(B) somehow exists in the law, and as discussed above, that case does not support
19 the assertion. Accordingly, the Ramey lawyers provided no legal support for their assertion that
20 they were somehow justified in filing the third complaint here. None of their declarations state
21 that they performed legal research into the issue before filing the third complaint, and none state
22 that they even knew about the inapposite *Milkcrate* case before filing the third complaint. At best,
23 they are left merely with reliance on their years of experience and factual arguments about
24 convenience to the parties. The argument that the dismissal of the First Action in Colorado “was
25 more akin to convenience and not a merits dismissal” is unpersuasive because nothing in that
26 original dismissal states that the dismissal was for mere convenience, and there is no provision of
27 Rule 41 which somehow exempts the impact of a voluntary dismissal if it is allegedly “for
28 convenience” or to “reduce costs” as Plaintiff’s lawyers now argue. [Dkt. 28 at 15-16].

1 Further, the Ramey lawyers admit that the First Action was dismissed because they
2 understood they would lose the pending motion to dismiss for improper venue. [Dkt. 28 at 15
3 (“The first [lawsuit] was dismissed by Koji when it determined that it would likely lose a venue
4 motion.”)]. At the OSC hearing, Mr. Ramey conceded that he was unable to locate any case law
5 supporting the position that voluntary dismissal for “convenience” or to reduce costs (by avoiding
6 a fight over venue) is exempt from Rule 41’s impact. [Dkt. 40 at 50:22-51:20]. In their
7 supplemental brief, the Ramey lawyers argue that a dismissal on venue grounds does not operate
8 as a decision on the merits, citing *Perrin v. TRW Info Services*, 990 F.2d 1259 (9th Cir. 1993).
9 [Dkt. 33 at 3 n.7]. The problem is that the dismissal on venue grounds in *Perrin* was a result of an
10 order dismissing the case issued by the district court, not as a result of the operation of voluntary
11 dismissal under Rule 41. The other defect in the Ramey lawyers’ argument is that the dismissal of
12 the First Action here was *not* on venue grounds. Motivation to file a voluntary dismissal is not a
13 dismissal on venue grounds—the legal basis for a voluntary dismissal is Rule 41 (and not a ruling
14 or finding that venue was improper). The argument that the “basis” for the dismissal was that Koji
15 did not want to contest an improper venue motion is not the same thing as a dismissal on venue
16 grounds, and it does not transform a voluntary dismissal (which here was unqualified and made no
17 reference to venue on its face) into a dismissal on venue grounds. The Ramey lawyers cite no law
18 in their OSC response that supports the assertion that a voluntary dismissal motivated by a venue
19 issue is treated as a dismissal on venue grounds. And the Ramey lawyers make no averment in
20 their declarations that they researched or even considered this issue in their prefiling inquiry
21 before filing this Third Action.

22 More fundamentally, the Ramey lawyers’ argument about whether the dismissal of the
23 First Action was a “decision on the merits” is a red herring. Under Rule 41, it is the dismissal of
24 the second lawsuit (identical to the first lawsuit) which results in an adjudication on the merits.
25 Rule 41 has no language which turns on whether or not the first dismissal was “on the merits” or
26 not. As long as the first dismissal was voluntary and by notice under Rule 41(a)(1)(B), and as
27 long as the first case was “based on or including the same claim” as in the second case, then the
28 notice of dismissal of the second case operates as an adjudication on the merits.

1 The Ramey lawyers’ argument that this Third Action somehow differed from the scope of
2 the previous two dismissed actions is unsupported by the record. [Dkt. 28 at 18]. The Ramey
3 lawyers argue that the patent infringement claims chart appended to the third complaint “charted a
4 new product that had not been alleged as infringing in the prior suit.” *Id.* That argument
5 misrepresents the breadth of the pleading of the second complaint (and thus, the breadth of the
6 dismissal of that case). The second complaint avers that “Defendant [Renesas] maintains,
7 operates, and administers systems, products, and services that infringes [sic] one or more of claims
8 1-4 of the ’703 patent. . . . Support for the allegations of infringement may be found in the chart
9 attached as Exhibit B. These allegations of infringement are preliminary and are therefore subject
10 to change.” [Dkt. 19-1 at 119-20]. The prayer for relief in the second complaint specifically
11 requests that the court “award Plaintiff an accounting for acts of infringement not presented at trial
12 and an award by the Court of additional damage for any such acts of infringement” and seeks “a
13 decree addressing future infringement that . . . awards damages for future infringement in lieu of
14 an injunction in an amount consistent with the fact that for future infringement the Defendant will
15 be an adjudicated infringer of a valid patent[.]” *Id.* at 121-22. Thus, the face of the second
16 complaint encompassed more than just the specific exemplary product in the claims chart attached
17 to that complaint, specifically sought relief against Renesas for all present and future infringement,
18 and specifically reserved the right to change the allegations of infringement.

19 The fact that the third complaint attached a claims chart for a different product than the one
20 specifically charted for the second complaint myopically ignores the scope of the allegations of
21 infringement in the second complaint (which facially covered all present, future, and any other
22 alleged infringing products, not limited to the one in the claims chart). In this regard, it is
23 noteworthy that only a few months separated the dismissal of the Second Action and the filing of
24 the Third Action—and the evidence for the allegedly “new” product charted for the third
25 complaint is dated November 22, 2023, well before the date of dismissal of the second complaint.
26 The “new” product charted for the Third Action complaint existed at the time of the Second
27 Action and—in light of the literal breadth of the pleading accusing Renesas of infringement in the
28 second complaint—that “new” product was already subsumed in the infringement accusations in

1 the Second Action.

2 The argument relying on the allegedly “new” claims chart attached to the third complaint
3 similarly ignores the scope of the infringement allegations in the third complaint. The Ramey
4 lawyers ignore the fact that the scope of the infringement allegations in the third complaint
5 completely mirror and duplicate the scope of the infringement allegations in the second dismissed
6 complaint. Both complaints use the same language. As with the second complaint, the third
7 complaint avers that “Defendant [Renesas] maintains, operates, and administers systems, products,
8 and services that infringes [sic] one or more of claims 1-4 of the ’703 patent. . . . Support for the
9 allegations of infringement may be found in the chart attached as Exhibit B. These allegations of
10 infringement are preliminary and are therefore subject to change.” [Dkt. 1 at 3-4]. The prayer for
11 relief in the third complaint (just like the second complaint) specifically requests that the court
12 “award Plaintiff an accounting for acts of infringement not presented at trial and an award by the
13 Court of additional damage for any such acts of infringement” and seeks “a decree addressing
14 future infringement that . . . awards damages for future infringement in lieu of an injunction in an
15 amount consistent with the fact that for future infringement the Defendant will be an adjudicated
16 infringer of a valid patent[.]” *Id.* at 6. Thus, just like the second complaint, the face of the third
17 complaint encompasses more than just the specific exemplary product in the claims chart attached
18 to the complaint, specifically seeks relief against Renesas for all present and future infringement at
19 the time, and specifically reserves the right to change the allegations of infringement.

20 In sum, the Ramey lawyers’ argument that they were justified in filing the third complaint
21 because the claims chart attached to that complaint was for a “new” or “different” product which
22 was not explicitly identified as infringing in the Second Action is unavailing. The breadth of the
23 Second Action encompassed that “new” product by literally stating that the infringement
24 allegations were subject to change and thus not limited to the one specific product in the claims
25 chart attached to the second complaint. That “new” product existed as of November 2023, the
26 same month the second complaint was filed, and months before the Second Action was voluntarily
27 dismissed. And, conversely, the breadth of the third complaint facially reaches beyond the one
28 exemplary product identified in the claims chart attached to that third complaint, and like the

1 second complaint specifies that the allegations of infringement were subject to change. And
2 because Koji's lawyers voluntarily dismissed the second complaint by notice under Rule 41, that
3 served as an adjudication on the merits and barred filing the identically worded third complaint.

4 Further, at the OSC hearing, Mr. Ramey was unable to identify any pre-filing inquiry by
5 himself or any other Ramey LLP attorney (much less reasonable inquiry supported by law)
6 regarding the effect of Rule 41 on whether the complaint in this Third Action was warranted by
7 existing law or any other permissible basis under Rule 11. That is, the citation to case law
8 (*Milkcrate* discussed above) in the OSC response and in the attorneys' declarations is a *post hoc*
9 attempt to justify the conduct at issue. Mr. Ramey was equally unable to identify whether any of
10 the Ramey LLP lawyers performed any pre-filing inquiry as to the impact of the dismissal filed in
11 the Second Action prior to the filing of that dismissal. Plaintiff's counsel was likewise unable to
12 cite any law of which they were aware *prior to filing the complaint in this Third Action* which
13 reasonably supported the position that the dismissals of the complaints in the previous two actions
14 avoided an adjudication on the merits under Rule 41, and thus, which reasonably supported the
15 filing of the complaint in this Third Action.

16 The course of action the Ramey lawyers took after filing the third complaint is further
17 illustrative. The Ramey lawyers admit that immediately after filing the third complaint, "a copy
18 was sent to the Defendant with a proposed settlement letter." [Dkt. 28 at 12]. That is, like the
19 general approach the Ramey firm employs, the Ramey lawyers here sought immediate payment in
20 settlement of this Third Action before litigating the issues on the merits. And more importantly,
21 the Ramey lawyers sought settlement payment without having done any diligence into whether the
22 third complaint was justifiably filed under Rule 41. When confronted with the Rule 41 issue by
23 Renesas's counsel, Koji's lawyers here simply dismissed this Third Action rather than litigate the
24 issue on the merits. This course of action is indicative of an attempt to harass Renesas, by filing a
25 third lawsuit without proper prefiling inquiry solely to attempt to eke out a settlement payment.
26 The quick voluntary dismissal of the third complaint supports a finding that this Third Action was
27 not filed in a good faith attempt to vindicate Koji's patent rights on the merits; rather, that early
28 dismissal is evidence of a quickly abandoned and failed attempt to try to obtain settlement

1 payment from Renesas. Based on the record as a whole, the Court **FINDS** that the filing of the
 2 third complaint here and counsel's failures to perform pre-filing inquiry into the Rule 41 issues
 3 constitute bad faith and are akin to a contempt of court on the part of the three Ramey law firm
 4 lawyers.

5 Accordingly, in light of the totality of the factual record and pursuant to applicable legal
 6 standards, the Court **FINDS** that these three Ramey law firm attorneys engaged in bad faith
 7 litigation and violated their obligations under Rule 11 with regard to this case. None of these
 8 attorneys performed any pre-filing investigation (much less an adequate inquiry) as to the impact
 9 of the prior dismissals on the ability to file the complaint in this Third Action under Rule 41.
 10 None of these attorneys proffered an adequate or reasonable justification for their failure to do so.
 11 The conduct by these attorneys here is similar to the conduct sanctioned under Rule 11 in *Sanai v.*
 12 *Sanai*, 408 F. App'x 1 (9th Cir. 2010). In *Sanai*, the sanctioned parties filed duplicative causes of
 13 action in a second action after the court there dismissed the first action. *Id.* at 2. There, "[t]he
 14 court ordered appellants to show cause why they should not be sanctioned for realleging claims
 15 the court had dismissed, gave them an opportunity to be heard, and thereafter made an express
 16 finding that they had acted in bad faith." *Id.* at 2-3. The Ninth Circuit affirmed the imposition of
 17 Rule 11 sanctions. *Id.* Here, as in *Sanai*, the bad faith abuse of the litigation system is evident
 18 from the record.

19 Accordingly, for all the reasons discussed herein, the Court **SANCTIONS** these three
 20 Ramey law firm attorneys under Rule 11 in light of the applicable legal standards for *sua sponte*
 21 Rule 11 sanctions and in light of the record as a whole, after giving them notice and an
 22 opportunity to respond.

23 **II. Sanctions Under the Court's Inherent Authority**

24 As noted above, Renesas's motion for fees also includes a request for imposition of
 25 sanctions under the Court's inherent powers. [Dkt. 18 at 24]. "[T]he district court has the
 26 inherent authority to impose sanctions for bad faith, which includes a broad range of willful
 27 improper conduct." *Fink v. Gomez*, 239 F.3d 989, 992 (9th Cir. 2001). "The imposition of
 28 sanctions under the inherent power of the court is proper where counsel has 'willfull[y] abuse[d]

1 judicial process' or otherwise conducted litigation in bad faith.” *In re Itel Sec. Litig.*, 791 F.2d
2 672, 675 (9th Cir. 1986) (citations omitted). “For purposes of imposing sanctions under the
3 inherent power of the court, a finding of bad faith ‘does not require that the legal and factual basis
4 for the action prove totally frivolous; where a litigant is substantially motivated by vindictiveness,
5 obduracy, or *mala fides*, the assertion of a colorable claim will not bar the assessment of attorney's
6 fees.’” *Id.* (citation omitted).

7 At the August 22, 2024 hearing, Ms. Kalra attempted to raise, but then withdrew, an
8 argument that this Court somehow lacks jurisdiction to consider disciplining either Mr. Ramey or
9 Mr. Kubiak under Rule 11 because they were never admitted *pro hac vice* in this case. As the
10 Court indicated at that hearing, the Court was prepared to grant Mr. Ramey and Mr. Kubiak *pro*
11 *hac vice* status *sua sponte* to address any such procedural argument, but none of the attorneys
12 argued lack of jurisdiction in direct response to the OSC. The Court does not lack jurisdiction
13 since both Mr. Ramey and Mr. Kubiak appeared on the pleadings (either in the signature block
14 and/or on the cover page) and Mr. Ramey signed at least some pleadings. *See Holgate v. Baldwin*,
15 425 F.3d 671, 677 (9th Cir. 2005) (“The signing requirement in Rule 11 makes clear that any
16 attorney who, at any time, certified to the court that a pleading complies with Rule 11 is subject to
17 the rule, even if the attorney later withdraws from the case.”). Further, the fact that Koji
18 voluntarily dismissed this third lawsuit does not deprive the Court of jurisdiction to oversee
19 discipline of these attorneys. *See Itel*, 791 F.2d at 675 (A lawyer cannot “escape sanctions for
20 misconduct simply by withdrawing from a case before opposing counsel applies for sanctions.”).

21 Notably, Mr. Ramey does not argue that his conduct falls outside Rule 11 because he
22 signed only the last page of each of the complaints in the Second and Third Actions (but not the
23 penultimate page of those documents). Mr. Kubiak likewise does not argue that his conduct falls
24 outside Rule 11’s ambit because he personally did not sign the complaints in the Second and Third
25 Actions, but is merely listed as one of the Attorneys for Plaintiff on those pleadings. *See Fed. R.*
26 *Civ. P. 11* advisory committee’s note to 1993 amendment (“The sanction should be imposed on
27 the persons—whether attorneys, law firms, or parties—who have violated the rule or who may be
28 determined to be responsible for the violation. . . . The revision [to subsection (c)] permits the

1 court to consider whether other attorneys in the firm, co-counsel, other law firms, or the party
 2 itself should be held accountable for their part in causing a violation.”); *see also Religious Tech.*
 3 *Ctr. v. Gerbode*, No. CV 93-2226 AWT, 1994 WL 228607, at *5 (C.D. Cal. May 2, 1994) (“[T]he
 4 court has the authority to sanction a co-counsel law firm, as well as the primary offending firm,
 5 even though co-counsel did not sign the offending pleading.”); *Blossom v. Blackhawk Datsun,*
 6 *Inc.*, 120 F.R.D. 91, 101-02 (S.D. Ind. 1988) (holding that attorney, who did not “sign” the
 7 pleading but whose name appeared on the pleading, waived any objection that he did not “sign”
 8 the pleading forming the basis of Rule 11 sanctions where the attorney “ratified that everything in
 9 the case was done with his full knowledge and approval” and admitted that “any violation known
 10 to exist in th[e] case was the result of his own conduct”).

11 However, even assuming Rule 11 somehow did *not* govern these attorneys’ conduct here,
 12 the Court **FINDS** that all three attorneys are subject to sanctions under the Court’s inherent
 13 powers with regard to their conduct discussed herein. *See Chambers v. NASCO, Inc.*, 501 U.S. 32,
 14 50 (1991) (“[W]hen there is bad-faith conduct in the course of litigation that could be adequately
 15 sanctioned under the rules, the court ordinarily should rely on the rules rather than the inherent
 16 power. But if in the informed discretion of the court, neither the statute nor the rules are up to the
 17 task, the court may safely rely on its inherent power.”).

18 As discussed in detail above, the three Ramey law firm attorneys engaged in bad faith
 19 litigation here. Attorneys Ramey, Kalra, and Kubiak failed to investigate an obvious and serious
 20 issue and undertook actions in filing the third complaint in ways which are cause for grave
 21 concern. “Sanctions are available for a variety of types of willful actions, including recklessness
 22 when combined with an additional factor such as frivolousness, harassment, or an improper
 23 purpose.” *Fink*, 239 F.3d at 994. As discussed above, the filing of the third complaint without
 24 investigating the Rule 41 issue was willful, if not reckless, and that filing was frivolous in light of
 25 the two previous dismissals. The immediate willful attempt to seek settlement payment from
 26 Renesas after filing the unfounded third complaint was harassment and tantamount to bad faith.

27 The Court therefore exercises its discretion and **FINDS** that sanctions under the Court’s
 28 inherent powers are also appropriate here, particularly to the extent Rule 11 somehow does not

1 apply to these three lawyers.

2 **III. The Unauthorized Practice of Law**

3 Attorneys practicing in the Northern District of California must either be members of the
4 Court's bar, or alternatively, admitted to practice in a particular case pending in the Court *pro hac*
5 *vice*. See Civil L.R. 11-1(a), 11-3. Neither Mr. Ramey nor Mr. Kubiak is a member of the
6 Northern District of California Bar. See *United States v. Author Servs., Inc.*, 804 F.2d 1520 (9th
7 Cir. 1986) ("It is well established that a court may take judicial notice of its own records.");
8 *Hymes v. Procnier*, 428 F.2d 824, 824 (9th Cir. 1970) ("Of course, the district court can take
9 judicial notice of its own records[.]").

10 One prerequisite to be admitted to the Bar of this Court is that an attorney must be an
11 active member in good standing of the Bar of the State of California. See Civil L.R. 11-1(b).
12 Neither Mr. Ramey nor Mr. Kubiak is a member of the Bar of the State of California. See
13 *Castillo-Perez v. I.N.S.*, 212 F.3d 518, 524 n.6 (9th Cir. 2000) (taking judicial notice of the
14 membership records of the State Bar of California); *White v. Martel*, 601 F.3d 882, 885 (9th Cir.
15 2010) (taking judicial notice of state bar records regarding attorney disciplinary proceedings).
16 Accordingly, Mr. Ramey and Mr. Kubiak may not practice in the Northern District of California
17 unless they are admitted (on a case-by-case basis) to appear *pro hac vice*.

18 "[T]here is no fundamental right to appear *pro hac vice*." *Paciulan v. George*, 38 F. Supp.
19 2d 1128, 1144 (N.D. Cal. 1999), *aff'd*, 229 F.3d 1226 (9th Cir. 2000); see *Frazier v. Heebe*, 482
20 U.S. 641, 647 (1987) (describing attorneys admitted *pro hac vice* as "one-time or occasional
21 practitioners"). "The district court has the power to deny or revoke an attorney's *pro hac vice*
22 status, which is grounded within the court's inherent power 'to control admission to its bar and to
23 discipline attorneys who appear before it.' The court's decision to do so is reviewed for abuse of
24 discretion." *Robles v. In the Name of Humanity*, 2018 WL 2329728 at *4 (N.D. Cal. May 23,
25 2018) (citation omitted).

26 Civil Local Rule 11-3, which sets forth the requirements for *pro hac vice* applications,
27 provides that an attorney who is a member in good standing and eligible to practice before the Bar
28 of any United States Court or of the highest Court of any State may in a particular case be

1 permitted to practice within this District on a *pro hac vice* basis upon application and discretion of
 2 this Court. Civil L.R. 11-3(a). Relevant here, an attorney seeking *pro hac vice* status must submit
 3 their application and admission fee “at the time of the filing of a complaint or the attorney’s first
 4 appearance in the case.” Civil L.R. 11-3(b) (emphasis added). Further, an attorney who
 5 “regularly engage[s] in the practice of law in the State of California” is disqualified from *pro hac*
 6 *vice* admission (absent certain exceptions not germane here). Civil L.R. 11-3(c). In addition to
 7 the application documents, an applicant for *pro hac vice* admission must pay the fee for such
 8 admission at the time of the application (currently set at \$328 per applicant, per case). Civil L.R.
 9 11-3(e); see <https://www.cand.uscourts.gov/about/clerks-office/court-fees/>.

10 The Court may impose sanctions for violations of its local rules concerning *pro hac vice*
 11 admission. See Civil L.R. 11-8 (“A person who exercises, or pretends to be entitled to exercise,
 12 any of the privileges of membership in the bar of this Court, when that person is not entitled to
 13 exercise such privileges, may be referred to the Standing Committee in addition to any action
 14 authorized by applicable law.”) It is axiomatic that the Court has authority to enforce its local
 15 rules. 28 U.S.C. § 2071. A district court’s order regarding compliance with local rules is
 16 reviewed for abuse of discretion and broad deference is given to a court’s interpretation of its local
 17 rules. *Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007).

18 Canon 3(B)(6) for the Code of Conduct for United States Judges provides that “[a] judge
 19 should take appropriate action upon receipt of reliable information indicating the likelihood that . .
 20 . a lawyer violated applicable rules of professional conduct.” The unauthorized practice of law
 21 and the aiding of another’s unauthorized practice of law violate California’s ethical rules and such
 22 conduct may lead to disciplinary proceedings and other adverse consequences. See California
 23 Rules of Professional Conduct 5.5(a)-(b); State Bar of California Rule 1-300 (prohibiting
 24 unauthorized practice of law); CAL. BUS. & PROF. CODE § 6125 (“No person shall practice law in
 25 California unless the person is an active member of the State Bar.”). The unauthorized practice of
 26 law and the aiding of another’s unauthorized practice of law also violate this Court’s standards for
 27 professional conduct and may lead to disciplinary proceedings and other adverse consequences.

28 Mr. Ramey and Mr. Kubiak are both members of the State Bar of Texas. The Texas

1 Disciplinary Rules of Professional Conduct provide, among other things, that a lawyer shall not
 2 “practice law in a jurisdiction where doing so violates the regulation of the legal profession in that
 3 jurisdiction[.]” Texas Disciplinary Rule of Professional Conduct 5.05(a). A lawyer is subject to
 4 sanctions by the State Bar of Texas “for conduct occurring in another jurisdiction or resulting in
 5 lawyer discipline in another jurisdiction.” *See* Texas Rules of Disciplinary Procedure CC.2
 6 (defining sanctionable attorney conduct to include “[a]ttorney conduct that occurs in another
 7 jurisdiction, including before any federal court or federal agency, and results in the disciplining of
 8 an attorney in that other jurisdiction”).

9 As noted, these attorneys filed three successive cases on behalf of this same Plaintiff, Koji,
 10 against this same Defendant, Renesas, asserting infringement of the same patent in each case. The
 11 first of the three cases was filed in the District of Colorado. *See* Complaint, *Koji I*, No. 23-cv-
 12 01674-SKC (D. Colo. June 30, 2023), ECF No. 1. Mr. Ramey signed the complaint in the First
 13 Action, he is listed as counsel on the civil cover sheet, and he signed the notice of voluntary
 14 dismissal of the first case. *Id.* The complaint in the First Action lists both Mr. Ramey and Mr.
 15 Kubiak as “Attorneys for KOJI IP, LLC.” *Id.* The Court takes judicial notice that Mr. Ramey,
 16 Mr. Kubiak, and Ms. Kalra are all members in good standing of the District of Colorado’s Bar.
 17 The District of Colorado’s Standards of Professional Conduct adopt the Colorado Rules of
 18 Professional Conduct for members of the Colorado Bar Association. D.C.COLO.LAttyR 2(a).
 19 The Colorado Rules of Professional Conduct provide, among other things, that a lawyer shall not
 20 “practice law in a jurisdiction where doing so violates the regulation of the legal profession in that
 21 jurisdiction[.]” Colo. R. Prof’l. Cond. 5.5(a)(2).

22 Further, the Court takes judicial notice that Mr. Ramey and Mr. Kubiak are registered to
 23 practice as patent attorneys before the United States Patent and Trademark Office (“USPTO”).
 24 The USPTO’s Rules of Professional Conduct provide, among other things, that a “practitioner
 25 shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that
 26 jurisdiction, or assist another in doing so.” 37 C.F.R. § 11.505. A registered patent attorney is
 27 subject to discipline for “professional misconduct” by the USPTO, where misconduct includes
 28 being “publicly disciplined on ethical or professional misconduct grounds by any duly constituted

1 authority of: (1) A State, [or] (2) The United States.” *Id.* § 11.804(h)(1)-(2).

2 As noted, pursuant to Civil Local Rule 11-3(c), an attorney who is “regularly engaged in
3 the practice of law in the State of California” is ineligible for *pro hac vice* admission. Given the
4 sheer number of cases in this District alone in which Mr. Ramey and Mr. Kubiak have been
5 involved in recent years, had they properly filed motions for *pro hac vice* admission in these cases,
6 they would certainly have reached the point of disqualification for *pro hac* admission due to their
7 regular engagement in the practice of law in California. *See, e.g., Guguni v. Chertoff*, No. C 08-
8 1850 JL, 2008 WL 2080788, at *1 (N.D. Cal. May 14, 2008) (denying *pro hac vice* application on
9 grounds of regular practice in California for attorney who appeared in the Northern District in at
10 least five other cases); *see also Wang v. Future Motion, Inc.*, 646 F. Supp. 3d 1147, 1151-52 (N.D.
11 Cal. 2022) (denying *pro hac vice* application for attorney who appeared in at least one new case
12 each year since 2002 in the Northern District of California). The Court also notes that, for
13 purposes of determining whether these attorneys have been regularly engaged in the practice of
14 law in California, the numerous cases in which they have also appeared in the Central District of
15 California discussed above would further weigh in favor of that finding. *See Wang*, 646 F. Supp.
16 3d at 1152 (noting attorney Berman has appeared in 189 cases in the Central District of California
17 and finding “that [attorney] Berman appearing as an attorney in over 480 California federal cases
18 is pertinent to the Court’s analysis of whether Berman is ‘regularly engaged in the practice of law’
19 in California”).

20 As discussed above, the Ramey firm’s business model includes filing and then quickly
21 settling patent infringement lawsuits. In response to the OSC, Mr. Kubiak admitted that “[a]
22 decision was made by Mr. Ramey to attempt reduce costs on cases that resolved quickly, by not
23 automatically filing a request for *pro hac vice* admission.” [Dkt. 28-15 at 4]. In that regard, Mr.
24 Ramey’s declaration admits the following:

25 A decision was made by me, at the request of [Koji’s] Carlos
26 Gorrichategui in early 2022, a client manager, to attempt reduce costs
27 on cases that resolved quickly, by not automatically filing a request
28 for *pro hac vice* admission. Beginning in around 2022, I directed that
Ramey LLP stopped filing for *pro hac vice* applications in all cases
but I incorrectly left a signature line with an attorney, that, if the case
progressed, would later seek *pro hac vice* admission. That was my

mistake.

[Dkt. 28-2 at 7]. At the OSC hearing, Mr. Ramey conceded that the out-of-state attorneys at his firm purposefully avoid filing *pro hac vice* motions in this Court to avoid the *pro hac* application fees, because so few cases proceed beyond the pleading stages in light of the business model under which so many of his law firm's cases settle early for low or nuisance value.

Mr. Ramey's declaration is not accurate or candid, because as shown above, the Ramey lawyers have failed to file applications for *pro hac vice* admission in dozens of cases pre-dating the alleged 2022 request from Koji to stop filing such applications. Mr. Ramey's attempt to lay responsibility for the lack of *pro hac vice* applications on his client's request in 2022 is contrary to the objective facts. The Ramey firm represented numerous plaintiffs in this Court prior to 2022 without filing applications for *pro hac vice* admission. Nothing supports the averment in the declaration that this practice was spurred by Koji. Accordingly, the Court is troubled by Mr. Ramey's apparent attempt to deflect responsibility and obfuscate the timing of his law firm's practices in this declaration.

The Court **FINDS** that the two out-of-state attorneys from the Ramey firm do, in fact, regularly practice law in California, given the number of cases involving these attorneys in the Northern District of California and the Central District of California identified to date. If Mr. Ramey and Mr. Kubiak had properly filed applications for *pro hac vice* admission in each of the listed cases above and had they accurately listed the number of times they applied previously for *pro hac vice* admission, their *pro hac vice* applications filed at this point would be denied on the grounds that they are regularly engaged in the practice of law in California.

As discussed above, Mr. Ramey and his firm have been sanctioned by numerous other courts across the country. Mr. Ramey's and the Ramey law firm's long history of repeated instances of rules violations and noncompliance impacts the Court's decision regarding the imposition of sanctions here. It is clear that the conduct at issue in this case is not due to excusable neglect or oversight. Rather, as admitted, the conduct here was based on a conscious decision to avoid the application fees. By failing consistently to file for *pro hac vice* admission, this pattern of conduct all but deprived this Court (and other judges in California) of the

1 information necessary to determine whether or not the Ramey attorneys from Texas are regularly
2 engaged in the practice of law in California. While an attorney's failure to pay *pro hac* admission
3 fees in any one case may involve relatively minor costs, the repeated nature of the rules violations
4 here and the pattern of conduct makes clear that this conduct is capable of repetition (and indeed
5 has been repeated) while evading review, because the early settlement of the Ramey firm's cases
6 has impeded other courts' abilities to address the conduct squarely.

7 The conduct here is consistent with a pattern and practice of violating and flouting ethical
8 rules. *See ZT IP, LLC v. VMware, Inc.*, No. 3:22-CV-0970-X, 2023 WL 1785769, at *3 (N.D.
9 Tex. Feb. 6, 2023) (“[W]hether it acted in ignorance or negligence, ZT looks worse because of its
10 counsel's previous failure in a similar situation [to comply with Rule 11]. . . . ZT finds itself in a
11 similar position today with [Attorney William Ramey] again serving as counsel. The standard for
12 an exceptional case does not change based on counsel's previous failures; however, a previous
13 warning about certain pre-filing failures aids the Court in finding frivolousness, motivation, and
14 the need to advance considerations of compensation and deterrence.”).

15 Accordingly, in light of the totality of the factual circumstances and pursuant to applicable
16 legal standards, the Court **FINDS** that Mr. Ramey and Mr. Kubiak have in this case, and
17 repeatedly and knowingly in many other cases, engaged in the unauthorized practice of law in the
18 Northern District of California and in the State of California; have in this case, and repeatedly and
19 knowingly in many other cases, violated applicable rules of professional conduct to which they are
20 bound due to their licensing in various jurisdictions; have in this case, and repeatedly and
21 knowingly in many other cases, violated the Northern District of California's Civil Local Rules
22 (including, especially, the rules governing *pro hac vice* admissions); and have failed to provide
23 sufficient justification for these instances of repeated willful misconduct.

24 Further, the Court **FINDS** that Ms. Kalra has in this case, and repeatedly and knowingly in
25 many other cases, aided and abetted Mr. Ramey and Mr. Kubiak in engaging in their unauthorized
26 practice of law in this Court and in the State of California; has in this case, and repeatedly and
27 knowingly in many other cases, violated the California Rules of Professional Conduct and the
28 Northern District of California's guidelines for professional conduct; has in this case, and

1 repeatedly and knowingly in many other cases, violated the Northern District of California's Civil
2 Local Rules (including especially the rules governing *pro hac vice* admissions); and has failed to
3 provide sufficient justification for these instances of repeated misconduct.

4 The Court therefore **ORDERS** that Attorneys Ramey, Kubiak, and Kalra are hereby
5 sanctioned as set forth further in this Order, pursuant to the Court's inherent authority, the Court's
6 authority under the Civil Local Rules, and the Court's authority under Rule 11 and applicable law.

7 **IV. Deterrence of Future Conduct**

8 The conduct at issue here sparked significant discussion both in the briefing and at oral
9 argument. The manner in which these attorneys indicate they have or would modify their
10 approach to the practice of law impacts the nature and extent of sanctions the Court has
11 considered. *See* Fed. R. Civ. P. 11 advisory committee's note to 1983 amendment (A "court,
12 however, retains the necessary flexibility to deal appropriately with violations of the rule. It has
13 discretion to tailor sanctions to the particular facts of the case, with which it should be well
14 acquainted."); *In re Yagman*, 796 F.2d 1165, 1182-83 (9th Cir. 1986) ("Each case must be taken
15 individually and evaluated in light of its own peculiar circumstances. If sanctions are warranted
16 by those circumstances, the court should not waiver in imposing them. In so doing, however, the
17 court must be meticulously aware that this precarious balance can only be maintained if the
18 sanctions are justly imposed. . . . It also means that the amount of the sanctions and the manner in
19 which they are imposed cannot be inconsistent with the purpose and directive of the authority on
20 which the sanctions are based."); *Cooter & Gell v. Hartmax Corp.*, 496 U.S. 384, 404 (1990)
21 ("The district court is best acquainted with the local bar's litigation practices and thus best situated
22 to determine when a sanction is warranted to serve Rule 11's goal of specific and general
23 deterrence.").

24 At the OSC hearing, Mr. Ramey represented to this Court that he and his law firm changed
25 their procedures so that neither his name nor Mr. Kubiak's name would appear on future filings or
26 pleadings (even though they would continue to work on cases pending in this Court in the future).
27 Mr. Ramey represented that the only counsel named on the pleadings would be Ms. Kalra because
28 she is a member of the California bar. Mr. Ramey and Mr. Kubiak indicated no intention to obtain

1 California State Bar membership, and at the hearing, declined the Court's suggestion that they
2 take the California bar exam given how frequently they litigate in California.

3 In essence, Mr. Ramey's plan to avoid the same issues detailed in this Order going forward
4 is to work on California cases by ghostwriting pleadings, briefs, and infringement contentions, as
5 well as lead settlement negotiations, all in the background without informing the judge (or their
6 opponents) of the substantial work they are doing on those cases. According to Mr. Ramey, the
7 plan for all members of the Ramey firm who are not members of the California bar is to identify
8 only Ms. Kalra (or any member of the California bar who signs pleadings in their own name) as
9 the sole counsel of record for their clients, and thus, as the only attorney subject to a court's
10 express oversight and discipline.

11 The flaw in this plan is that Mr. Ramey leads *all* litigation at his firm, from strategy, to
12 client communications, to settlement negotiations. Further, under the proposed plan, other out-of-
13 state lawyers from the Ramey firm's Texas office would continue to perform the actual, detailed,
14 and significant legal work to analyze and interpret patent claims, develop infringement theories,
15 work with expert consultants, and prepare infringement claims charts—just as happened in this
16 case with regard to Mr. Kubiak. As admitted in the attorney declarations, Ms. Kalra relied heavily
17 on Mr. Ramey and Mr. Kubiak for virtually all substantive work in preparing and filing the
18 complaint here.

19 The Court is further aware of the number and volume of cases in California involving the
20 Ramey firm. If, going forward, only Ms. Kalra (or some other California lawyer) is the sole
21 attorney of record for all Ramey firm clients litigating in California, there would eventually arise
22 questions as to how one lawyer can ethically and responsibly prepare, make inquiry and
23 investigation, and then sign pleadings in dozens of patent lawsuits all pending at the same time.
24 As members of the IP bar are well aware, patent lawsuits are typically complicated and time
25 consuming; the Northern District of California's promulgation of specific Patent Local Rules
26 unique to patent cases is in part a recognition of the unique challenges in the effective
27 management of patent cases as compared to other subject matter areas. The long experience of the
28 undersigned with patent litigation informs these concerns—it appears impractical (if not highly

1 improbable) for one local California attorney, such as Ms. Kalra, to fully comply with their
 2 obligations under Rule 11 for every pleading or filing in dozens of co-pending and active patent
 3 lawsuits. *See Little v. JB Pritzker for Governor*, No. 18 C 6954, 2021 WL 1165097, at *7 n.2
 4 (N.D. Ill. Mar. 26, 2021) (“[I]t is the attorney’s job to bite off only what he can competently
 5 chew.”).

6 Further, this proposed remedial plan by Mr. Ramey and his firm would not appear to
 7 obviate the unauthorized practice of law by Mr. Ramey and Mr. Kubiak in future cases in
 8 California federal courts. As the Ninth Circuit has instructed, “[a]dmissions rules and procedure
 9 for federal court are independent of those that govern admission to practice in state courts.”
 10 *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 820 (9th Cir. 2009) (citing *In re Poole*,
 11 222 F.3d 618, 620–22 (9th Cir.2000)). “This is true even ‘when admission to a federal court is
 12 predicated upon admission to the bar of the state court of last resort.’” *Id.* (quoting *Poole*, 222
 13 F.3d at 620).

14 As noted, only lawyers admitted to this Court’s bar may practice in cases in this District,
 15 and this Court’s Civil Local Rules prohibit *pro hac vice* admission for lawyers who “regularly
 16 engage in the practice of law in the State of California” (absent certain exceptions not germane
 17 here). Civil L.R. 11-3(c). Given how many California cases Mr. Ramey and Mr. Kubiak have
 18 worked on in recent years, it is likely that they have already maxed out on their *pro hac*
 19 admissions. If they continue to work on California cases as they have done in the past, but simply
 20 avoid putting their names on the pleadings, that merely hides the identities of the lawyers actually
 21 working on the bulk of the case from the court. The Ramey firm is not planning to transfer the
 22 control and lead of cases to Ms. Kalra (or some other California lawyer). As represented to this
 23 Court, the Ramey firm’s plan is to continue to perform the bulk of substantive work, including
 24 overall case strategy, from their offices in Texas. Such an arrangement has been held to be the
 25 unauthorized practice of law in a sister federal court in California. *See G&G Closed Circuit*
 26 *Events, LLC v. Hernandez*, No. 3:22-cv-00398-JAH-MDD, 2023 WL 5020259, at *2-3 (S.D. Cal.
 27 Aug. 7, 2023).

28 The Ramey firm plan is particularly concerning with respect to Ms. Kalra (or the sole

1 California lawyer listed on the pleadings) because the practical effect of the plan is for that sole
 2 local attorney to essentially act as a pass-through for work product prepared by out-of-state
 3 lawyers, and as the sole California lawyer, she would bear the initial and perhaps primary risk
 4 under Rule 11. As noted above, a magistrate judge in the Southern District of Florida recently
 5 recommended that sanctions be imposed against the Ramey firm’s local counsel (and sole counsel
 6 on the pleadings) in another patent case, where the Ramey firm appears to have followed the same
 7 plan they intend to follow in this Court going forward:

8 [Ramey’s local counsel] Attorney Briant, as the only counsel of
 9 record in this matter for the plaintiff, unreasonably and without
 10 sufficient diligence allowed this matter to proceed when all facts
 11 compelled a different response.... Attorney Briant's conduct
 12 resulted from following the lead of Attorney William Ramey.
 13 Operating behind the scenes and driving the process, attorneys for the
 14 Defendant often found themselves working with Attorney Ramey,
 15 who never filed a notice of appearance or attempted to pro hac vice
 16 himself as a party to the case.... Despite failing to move for pro hac
 17 vice admission or otherwise appearing in this matter, Attorney
 18 Ramey functioned in a primary role spearheading the interactions
 19 with Defendant's counsel, while Briant took a back-seat.

20 *mCom IP*, 2025 U.S. Dist. LEXIS 43754, at *13-15.

21 While “reliance on forwarding co-counsel may in certain circumstances satisfy an
 22 attorney's duty of reasonable inquiry,” the Ninth Circuit has made clear that “[i]n relying on
 23 another lawyer, . . . counsel must ‘acquire[] knowledge of facts sufficient to enable him to certify
 24 that the paper is well-grounded in fact.’ An attorney who signs the pleading cannot simply
 25 delegate to forwarding co-counsel his duty of reasonable inquiry.” *Unioil, Inc. v. E.F. Hutton &*
 26 *Co.*, 809 F.2d 548, 558 (9th Cir. 1986) (citation omitted). As noted above, given the high-volume
 27 nature of the Ramey firm’s practice, there appear to be non-trivial risks as to one lawyer’s ability
 28 to perform a reasonable inquiry for the numerous active co-pending cases involving that firm in
 this Court alone (much less in the entirety of California). *Cf. In re Qinghe Liu*, 2024 USPTO OED
 LEXIS 27 (U.S. PTO Nov. 21, 2024) (suspending lawyer who was designated as attorney of
 record in over 1,000 trademark applications in a two-year period).

The proposed plan for future conduct by the Ramey firm—in reaction to the OSC and
 apparently in anticipation of this Order—also appears to be an attempt to avoid exposing Mr.

1 Ramey and other out-of-state lawyers in his firm to the supervision and discipline of the Northern
2 District of California in future patent cases. The undersigned is cognizant that California lawyers
3 can, within the bounds of the rules of professional conduct, rely on work product from non-
4 California lawyers in appropriate circumstances. *See Gabriel Techs. Corp. v. Qualcomm Inc.*, No.
5 08cv1992 AJB (MDD), 2013 WL 410103, at *12 (S.D. Cal. Feb. 1, 2013) (“As a general matter,
6 the Court recognizes that local counsel plays a unique role in the litigation process. The local
7 rules require out-of-state attorneys to acquire local counsel, and often local counsel serves
8 primarily in an administrative capacity for the limited purpose of filing documents with the
9 Court.”). There are limits, however, and merely rubber-stamping the work product of an out-of-
10 state lawyer exposes a California lawyer to risks which require careful consideration and
11 procedures to ethically avoid. *Id.* (noting that, while “the reasonable inquiry required for local
12 counsel under Rule 11 may not be the same as that required for lead counsel in many situations,”
13 the rule “remains applicable and sanctions may be imposed against local counsel when appropriate
14 under the circumstances”). Further, an out-of-state lawyer who ghostwrites work product and
15 works more than occasionally on a case in this Court does not enjoy blanket immunity from
16 supervision by a California district court. *Winterrowd*, 556 F.3d at 825 (“An out of state attorney
17 must still apply for *pro hac vice* admission if that attorney appears in court, signs pleadings, or is
18 the exclusive contact in a case with the client or opposing counsel.”). Therefore, as discussed
19 below, the Court finds that the Ramey firm’s plan is properly the subject of consideration as to
20 deterrence of future conduct when crafting and considering the sanctions herein.

21 CONCLUSION

22 The Court’s analysis of the issues in this Order is not a critique of the IP plaintiffs’ bar or
23 of non-practicing entities; as discussed in detail herein, the failures that resulted in the conclusions
24 here are specific to the actions taken (or not taken) by the three attorneys at issue on the
25 extraordinary facts presented in the record. In this Court’s many decades of experience in the law
26 (particularly patent litigation), the facts here are truly extraordinary, evincing a pattern of conduct
27 spanning many cases, over many years, specific to this one law firm and its namesake attorney.

28 Accordingly, **IT IS ORDERED THAT:**

1. The Order to Show Cause [Dkt. 27] is **DISCHARGED-IN-PART** subject to and as discussed by this Order.
2. Attorneys William P. Ramey, III, Jeffrey E. Kubiak, and Susan S.Q. Kalra are each sanctioned for their conduct detailed herein.
3. By no later than **April 26, 2025** each of these attorneys **SHALL** self-report the sanctions imposed on them herein and provide a copy of this Order to the relevant disciplinary committees or offices of the State Bar of California, the State Bar of Texas, the Bar of the United States District Court for the District of Colorado, the United States Patent and Trademark Office, and any other state or federal bars of which they are members. Within **ten (10) business days** of completing the self-reporting requirements, these attorneys **SHALL** file with this Court a certification under oath certifying they have self-reported as required.
4. By no later than **April 26, 2025** each of these attorneys **SHALL** self-report this sanction and provide a copy of this Order to the Northern District of California's Standing Committee of Professional Conduct, to the judges presiding over every other case currently pending in the Northern District of California in which any of these attorneys' names appears on any filings or pleadings (including all cases in which their names appear as "*pro hac vice* anticipated" or similar language), to the Central District of California's Standing Committee on Professional Conduct, and as an attachment to any motion for *pro hac vice* admission filed by or on behalf of any of these lawyers in any action filed in a California federal court **during the next five years**. Within **ten (10) business days** of completing these self-reporting requirements, these attorneys **SHALL** file with this Court a certification under oath certifying they have self-reported as required.
5. As discussed, Mr. Ramey has worked on and appeared on the pleadings in forty-six other cases in the Northern District of California without filing the required motion for *pro hac vice* admission. The fee for *pro hac vice* admission is currently \$328. By working on each of these cases without applying for *pro hac vice* admission, Mr. Ramey appropriated for himself the privilege of practicing in the Northern District of California as if he had been

admitted, without allowing each judge in each of those cases to determine from the relevant facts whether or not Mr. Ramey was regularly engaged in the practice of law in the State of California and thus ineligible for *pro hac vice* admission. Mr. Ramey has repeatedly engaged in the unauthorized practice of law in this Court (including in this case) and in other California federal courts. Further, Mr. Ramey deprived the Court of the *pro hac vice* fee he would have otherwise paid for working on each of these cases, which totals \$15,088. Mr. Ramey is the founding, named partner and managing partner of his law firm, according to his law firm's website, with over twenty years of experience, and he is the avowed lead counsel representing his client in this and other cases. The Court further finds that Mr. Ramey's declaration in response to the OSC was less than candid and borders on misleading, in that Mr. Ramey placed responsibility on his client, Koji, for the decision to not file *pro hac vice* applications since 2022, even though (as detailed above) Mr. Ramey has appeared in numerous other cases in this District prior to 2022 without filing *pro hac vice* applications and without representing Koji. Additionally, as detailed herein, Mr. Ramey knowingly directed the filing of the third complaint on behalf of Plaintiff Koji against Defendant Renesas asserting the exact same patent, despite voluntarily dismissing two prior identical cases. Mr. Ramey offered no legally supported excuses for filing the complaint in this case, identified no reasonable inquiry prior to the filing in light of Rule 41, and as discussed, this amounted to bad faith, harassment, and an abuse of the federal court system. An attorney of his experience level should know better than undertake all of these actions, and he admits that he knowingly undertook the conduct at issue here. The undersigned therefore **PERSONALLY SANCTIONS Attorney William P. Ramey III** triple the amount of unpaid *pro hac vice* fees otherwise due, for **a total of \$45,264**, for his intentional conduct herein and to deter him (and others) from such conduct in the future. Mr. Ramey **SHALL** pay this amount directly and personally (and this amount shall not be paid by his law firm or by his client) by no later than **April 26, 2025**, to the Clerk of the United States District Court for the Northern District of California. Mr. Ramey **SHALL** attach a copy of this Order to his payment.

6. As discussed, Mr. Kubiak has worked on and appeared on the pleadings in sixteen cases in the Northern District of California without filing the required motion for *pro hac vice* admission. The fee for *pro hac vice* admission is currently \$328. By working on each of these cases without applying for *pro hac vice* admission, Mr. Kubiak appropriated for himself the privilege of practicing in the Northern District of California as if he had been admitted, without allowing each judge in each of those cases to determine from the relevant facts whether or not Mr. Kubiak was regularly engaged in the practice of law in the State of California and thus ineligible for *pro hac vice* admission. Mr. Kubiak has repeatedly engaged in the unauthorized practice of law in this Court (including in this case) and in other California federal courts. Further, Mr. Kubiak deprived the Court of the *pro hac vice* fee he would have otherwise paid for working on each of these cases, which totals \$5,248. Mr. Kubiak has “acknowledge[d] that my prior practice [of not filing *pro hac vice* applications] was in error.” [Dkt. 28-15 at ¶ 13]. Mr. Kubiak has been a partner of the Ramey firm since 2012, according to the firm’s website, and has been practicing law for over twenty years. Additionally, as detailed herein, Mr. Kubiak knowingly participated in the preparation for and the filing of the third complaint on behalf of Plaintiff Koji against Defendant Renesas asserting the exact same patent, despite voluntarily dismissing two prior identical cases. Mr. Kubiak offered no legally supported excuses for filing the complaint in this case, identified no reasonable inquiry prior to the filing in light of Rule 41, and as discussed, this amounted to bad faith, harassment, and an abuse of the federal court system. An attorney of his experience should know better than undertake all of these actions, and he admits to having knowingly undertaken the conduct here. The Court therefore **PERSONALLY SANCTIONS Attorney Jeffrey E. Kubiak** double the amount of unpaid *pro hac vice* fees due, for **a total of \$10,496**, for his conduct herein and to deter him (and others) from such conduct in future. Mr. Kubiak **SHALL** pay this amount directly and personally (and this amount shall not be paid by his law firm or by his client), by no later than **April 26, 2025**, to the Clerk of the United States District Court for the Northern District of California. Mr. Kubiak **SHALL** attach a copy of this Order to his

1 payment.

2 7. Ms. Kalra worked as Counsel of the Ramey firm from February 2023 until quite recently.
3 As of the date of the OSC hearing, she was still Counsel with the Ramey firm, but
4 according to that firm's website and her current firm's website, she appears to have
5 separated from the Ramey firm in either November or December 2024. Since February
6 2023, Ms. Kalra worked on and appeared on the pleadings in at least thirty-five cases filed
7 in the Northern District of California in which Mr. Ramey failed to file the required motion
8 for *pro hac vice* admission, and in at least sixteen cases filed in this Court in which Mr.
9 Kubiak failed to file the required *pro hac vice* application. The fee for *pro hac vice*
10 admission is currently \$328. By working on each of these cases without ensuring the filing
11 of the requisite motion for *pro hac vice* admission on behalf of other attorneys of her law
12 firm, Ms. Kalra aided and abetted Mr. Ramey and Mr. Kubiak in their unauthorized
13 practice of law in this Court, without allowing each judge in each of those cases to
14 determine from the relevant facts whether or not Mr. Ramey and Mr. Kubiak were
15 regularly engaged in the practice of law in the State of California and thus ineligible for
16 *pro hac vice* admission. Ms. Kalra has repeatedly aided and abetted Mr. Ramey and Mr.
17 Kubiak to engage in the unauthorized practice of law in this Court (including in this case)
18 and in other California federal courts. Further, Ms. Kalra aided and abetted the deprivation
19 of the *pro hac vice* fees due to this Court that Mr. Ramey would have otherwise paid for
20 working on each of the thirty-five cases in which they were co-counsel, which totals
21 \$11,480. Similarly, Ms. Kalra's actions aided and abetted the deprivation of the *pro hac*
22 *vice* fees due to this Court that Mr. Kubiak would have otherwise paid for working on each
23 of the sixteen cases in which they were co-counsel, which totals \$5,248. Thus, the total
24 *pro hac vice* application fees which were never paid due to Ms. Kalra's actions totals
25 \$16,728. Ms. Kalra "acknowledge[s] that the firm's prior practice [of avoiding filing *pro*
26 *hac vice* applications] was in error[.]" [Dkt. 28-1 at ¶ 22. Ms. Kalra has been a member of
27 the California bar for over thirty years. Additionally, as detailed herein, Ms. Kalra
28 knowingly signed and filed the third complaint on behalf of Plaintiff Koji against

Defendant Renesas asserting the exact same patent, despite voluntarily dismissing two prior identical cases. Ms. Kalra offered no legally supported excuses for filing the complaint in this case, identified no reasonable inquiry prior to the filing in light of Rule 41, and as discussed, this amounted to bad faith, harassment, and an abuse of the federal court system. Ms. Kalra avers in her declaration that “at all times, I was acting as lead attorney on all California matters and William Ramey and Jeffrey Kubiak were practicing under my license.” [Dkt. 28-1 at ¶ 22]. Ms. Kubiak nowhere explains (and did not explain at the OSC hearing) how an out-of-state attorney can “practice under the license” of a California attorney without being admitted *pro hac vice*. Mr. Ramey and Mr. Kubiak similarly failed to explain how they could “practice under” Ms. Kalra’s bar admission or license in California without being admitted *pro hac vice*. [Dkt. 28-15 at ¶ 13; Dkt. 28-2 at ¶ 20]. An attorney of Ms. Kalra’s experience level should know better than undertake all of these actions, and she admits to having knowingly undertaken the conduct at issue here. Because Ms. Kalra aided and abetted the conduct at issue, and because Ms. Kalra appears to have separated from the Ramey firm (and thus, is no longer involved in the business practices at issue here in the foreseeable future), the Court therefore **PERSONALLY SANCTIONS Attorney Susan S.Q. Kalra** by a reduced one-half of the amount of *pro hac vice* application fees that would have otherwise been paid for the two attorneys she aided and abetted, for **a total of \$8,364**, for her conduct herein and to deter her (and others) from such conduct in future. Ms. Kalra **SHALL** pay this amount directly and personally (and this amount shall not be paid by the Ramey law firm or by Koji) by no later than **April 26, 2025**, to the Clerk of the United States District Court for the Northern District of California. Ms. Kalra **SHALL** attach a copy of this Order to his payment.

8. To be clear, while the amounts of monetary sanctions imposed are derived from the amount of *pro hac vice* fees that went unpaid, the Court utilized that rubric within its discretion to rationally and proportionally determine an appropriate amount of monetary sanctions to impose for all of the conduct and failures described herein. Further, as indicated, the Court enhanced or diminished the amount based on unpaid *pro hac vice* fees

as a reflection of the level of responsibility for each attorney in the conduct at issue, the seriousness of the conduct, and as a deterrent for future conduct.

9. As discussed in detail herein, Mr. Ramey informed the Court of his intention to undertake future work in this Court and in other California district courts by simply removing his (and Mr. Kubiak's) names from the pleadings. As discussed, this course of action raises concerns, particularly as to how it would be ethically, professionally, and competently administered. The record indicates that the Ramey firm has followed that practice in at least one other district court, and has been subject to sanctions along with its local counsel for their conduct using this plan. The Court therefore finds that monetary sanctions alone are not sufficient to deter the conduct at issue and finds that additional monetary sanctions would not be proportionate and would not serve the goal of deterrence under Rule 11. Accordingly, the Court further **ORDERS** Mr. Ramey and Mr. Kubiak to each complete at least two hours of in-person, California bar-approved CLE classes on Legal Ethics and/or Professional Conduct, and at least an additional two hours of in-person, California bar-approved CLE on Law Practice Management, all such CLE to be completed by no later than **March 27, 2026**. Mr. Ramey and Mr. Kubiak **SHALL** file with the Court a certification, under oath, that each has completed such CLE by the deadline (attaching any certificate of completion from the CLE provider(s)), where such certification shall be filed within **ten (10) business days** of the completion of each such CLE course.

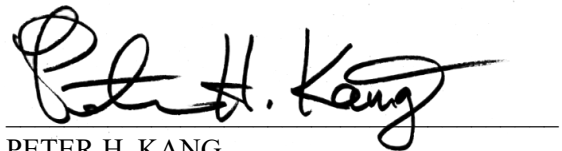
10. As noted, the record indicates that the conduct at issue here resulted from practices or policies of the Ramey law firm with regard to handling (and not filing) *pro hac vice* applications and a failure to conduct reasonable pre-filing inquiry before filing a third complaint after two prior voluntary dismissals of the same cause of action. Therefore, the Court further **ORDERS** Mr. Ramey and Mr. Kubiak to provide all attorneys of the Ramey law firm copies of this Order as well as copies of all educational materials received in connected with the CLE courses ordered above. The required distribution of this Order **SHALL** be completed by no later than **April 2, 2025**. The required distribution of CLE educational materials within the Ramey firm **SHALL** be completed within **ten (10)**

business days of the completion of each of the CLE courses ordered herein. The certifications ordered above **SHALL** include certifications by Mr. Ramey and Mr. Kubiak of the distribution of this Order and the CLE educational materials to all Ramey firm lawyers.

11. The Court **SHALL** retain jurisdiction over these attorneys, pending completion of the payments, CLEs, and certifications required by this Order, and to ensure proper compliance with this Order and the Court's directives.

IT IS SO ORDERED.

Dated: March 26, 2025



PETER H. KANG
United States Magistrate Judge

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KOJI IP, LLC,

Plaintiff,

v.

RENESAS ELECTRONICS AMERICA,
INC.,

Defendant.

Case No. [24-cv-03089-PHK](#)

**ORDER GRANTING MOTION FOR
ATTORNEYS' FEES AND SANCTIONS**

Re: Dkt. 18

“Exceptional cases are, by definition, the exception. But since *Octane's* change in the standard, the rule seems to be for prevailing parties to bring an exceptional case motion. This case is no exception. But it is exceptional.” *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, No. SACV 12-00329 AG (JPRx), 2015 WL 12733442, at *1 (C.D. Cal. Mar. 10, 2015), *aff'd*, 669 F. App'x 575 (Fed. Cir. Oct. 17, 2016).

This is the third in a series of identical patent infringement actions brought by Plaintiff Koji IP, LLC (“Koji”)—represented by the Ramey law firm—against Defendant Renesas Electronics America, Inc. (“REA”), asserting the exact same patent in each case. *See* Dkt. 1. The Parties have consented to proceed before a Magistrate Judge for all purposes, including the entry of a final judgment under 28 U.S.C. § 636(c). [Dkt. 10; Dkt. 20].

After the filing of this lawsuit and after the Parties exchanged correspondence, Koji filed a notice of voluntary dismissal with prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i). [Dkt. 12]. Now before the Court is REA’s motion for attorneys’ fees under 35 U.S.C. § 285 and requesting that those fees be levied against not just Koji but also Koji’s counsel jointly and severally under 28 U.S.C. § 1927 and the Court’s inherent authority. [Dkt. 18]. Koji has filed an

1 opposition to REA’s motion and REA has filed a reply. [Dkt. 24; Dkt. 25]. The Court heard oral
2 argument on the instant motion on August 22, 2024. *See* Dkt. 26. Having reviewed the Parties’
3 written submissions and oral arguments, the Court **GRANTS** the motion in light of applicable
4 legal standards for the reasons discussed herein.

5 On March 26, 2025, the Court issued an Order sanctioning Koji’s counsel in this matter.
6 [Dkt. 27]. That Order discusses the procedural history and course of conduct in this case in further
7 detail. Familiarity with that concurrently issued Order is assumed, and the factual discussion in
8 that Order is incorporated herein.

9 **BACKGROUND**

10 Koji is the owner by assignment of U.S. Patent No. 10,790,703 (“the ’703 Patent”). The
11 ’703 Patent, entitled “Smart Wireless Power Transfer Between Devices,” relates generally to a
12 wireless power transfer system consisting of a “powering device” that is configured to wirelessly
13 charge a “powered device.” The claims are, in general, directed to controlling wireless charging
14 operations performed by the powering device based on how the charging operation affects the
15 battery used to power the powering device.

16 On June 30, 2023, Koji—represented by the Ramey law firm—filed the first of three
17 patent infringement lawsuits against REA in the District of Colorado (“First Action”) alleging
18 infringement of the ’703 Patent. Complaint, *Koji IP, LLC v. Renesas Electronics America, Inc.*
19 (*“Koji I”*), No. 1:23-cv-01674-SKC (D. Colo. Jun. 30, 2023), ECF No. 1. On August 25, 2023,
20 REA filed a motion to dismiss Koji’s complaint in the First Action, pursuant to Federal Rules of
21 Civil Procedure 12(b)(3) and 12(b)(6), arguing that venue in Colorado was improper and that the
22 infringement allegations were inadequately pleaded. Motion to Dismiss, *Koji I*, No. 1:23-cv-
23 01674-SKC (D. Colo. Aug. 25, 2023), ECF No. 14. On the merits, REA argued, specifically, that
24 Koji’s direct infringement allegations were deficient because the accused product lacked
25 components required to meet each limitation of each claim of the asserted patent, and that the
26 indirect infringement claims were subject to dismissal for failure to allege REA’s pre-suit
27 knowledge of the patent-in-suit. In lieu of filing an opposition to the motion to dismiss, on
28 September 6, 2023, Koji instead filed a voluntary notice of dismissal of the First Action without

1 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Notice of Voluntary
2 Dismissal of Case, *Koji I*, No. 1:23-cv-01674-SKC (D. Colo. Sept. 6, 2023), ECF No. 18.

3 Shortly thereafter, on November 8, 2023, Koji—through the same counsel, the Ramey law
4 firm—filed a second, identical patent infringement lawsuit against REA in the Northern District of
5 California (“Second Action”), using an identically worded complaint alleging infringement of the
6 same ‘703 Patent against the same defendant, REA. Complaint, *Koji IP, LLC v. Renesas*
7 *Electronics America, Inc.* (“*Koji IP*”), No. 3:23-cv-05752-LJC (N.D. Cal. Nov. 8, 2023), ECF No.
8 1. That Second Action complaint was facially copied from the First Action complaint—indeed,
9 several paragraphs in the Second Action complaint still contain language regarding jurisdiction
10 and venue being proper in Colorado (the venue of the First Action, not the venue of the Second
11 Action). *Id.* at ¶¶ 3, 5-6. On December 22, 2023, REA sent Koji a letter regarding the complaint
12 in the Second Action, identifying what REA alleged to be multiple pleading and infringement
13 accusation failures, including several deficiencies that were previously raised in its motion to
14 dismiss the First Action in Colorado. [Dkt. 19-1 at 132-38]. In that letter, REA’s counsel advised
15 Koji’s counsel that if the matter were to move forward, REA would seek to have the case declared
16 exceptional and would seek an award of attorneys’ fees. *Id.* at 137.

17 In response, on January 3, 2024, Attorney William P. Ramey, III, on behalf of Koji,
18 identified to REA three new products that Koji claimed also infringe the ‘703 Patent. [Dkt. 19-1
19 at 140 (“we also wanted to make you aware of the products that will be included in our
20 infringement contentions,” identifying the PTX30W, REA RX111, and ISL1801 products)].
21 Notably, among the three REA products accused of infringing—and which Koji stated its intent to
22 add to its infringement contentions in the Second Action—was the Renesas PTX30W product. *Id.*
23 Mr. Ramey told REA that “we think there may be other products” at issue. *Id.* at 151. That same
24 day, Mr. Ramey sent a separate email addressing some of the arguments in REA’s earlier letter
25 regarding the allegedly insufficient direct infringement allegations in the claims chart attached to
26 the complaint. *Id.* at 142.

27 On January 12, 2024, Mr. Ramey sent an email to REA’s counsel asking if REA had a
28 settlement counteroffer, stating that: “Our initial offer was very low. Let me know if we can close

1 the case.” *Id.* at 152. REA’s counsel responded that same day, indicating that REA’s counteroffer
2 would be for Koji to voluntarily dismiss this case, and in return, REA would not seek its fees and
3 costs. *Id.* at 151. Later that same day (January 12, 2024), Mr. Ramey responded further on behalf
4 of Koji, stating: “My client has agreed to accept \$5k in resolution of the case. While we think
5 there may be other products, we extend this offer in good faith on what you have told us.” *Id.*

6 On January 18, 2024, REA responded in writing, arguing that Koji’s infringement
7 allegations remained frivolous and presenting data sheets demonstrating that two of the newly
8 accused products (the RX111 and ISL1801) were prior art, one of which predated the provisional
9 application for the ‘703 patent by over two years. [Dkt. 19-1 at 158]. In that letter, REA’s
10 counsel argued that the newly identified PTX30W does not infringe the ‘703 patent on several
11 grounds, and further advised Koji’s counsel that if the matter were to move forward, REA would
12 seek to have the case declared exceptional and would seek an award of attorneys’ fees. *Id.* at 158-
13 59. In a further email on January 18, 2024, REA’s counsel reiterated REA’s position that the case
14 should be voluntarily dismissed by Koji, in return for which REA would not seek fees or costs,
15 and that otherwise, REA would file a motion to dismiss. *Id.* at 318.

16 Mr. Ramey, in response, sent an email to REA’s counsel, dated January 23, 2024, stating
17 “[h]ere is another product we are accusing,” and attaching an infringement claims chart. [Dkt. 19-
18 1 at 328]. That email was sent not only to REA’s counsel but also to Mr. Kubiak and Ms. Kalra,
19 both counsel of record for Koji in this case. *Id.* The attachment to that email is a file titled,
20 “EoU_CC-US10790703_Koji Yoden - wireless power transfer v. Renesas Electronics's
21 PTX130W_PTX30W (Claim 1) GSS.pdf.” *Id.* The claims chart attached to Mr. Ramey’s January
22 23, 2024 email accuses REA’s PTX130W/PTX30W product—the same product Mr. Ramey
23 identified as an accused infringing product in his prior January 3, 2024 email. [Dkt. 19-1 at 329-
24 38]. The claims chart includes excerpts from a data sheet for “PTX130W/PTX30W Hardware
25 Integration.” *Id.* at 331. Koji’s infringement claims chart explicitly states that the PTX30W is
26 included in the infringement accusation: “*Renesas Electronics's PTX130W/PTX30W (MUST BE*
27 *BOUGHT TOGETHER IN ORDER TO ACHIEVE POWER TRANSFER) is a wireless power*
28 *transfer system for wirelessly charging a powered device.*” *Id.* (emphasis in original). The claims

1 chart includes explicit accusations and images of REA’s PTX30W product. *Id.* at 333-35, 337-38
2 (identifying PTX30W as part of the accused “receiver” and labeled as “Listener”); *id.* at 336
3 (image labeled “PTX30W board” with accused PTX30W chip component circled in yellow as
4 corresponding to claim limitation).

5 On January 23, 2024, REA’s counsel replied by email, arguing that the accused PTX30W
6 product does not infringe for several reasons. *Id.* at 340. REA’s counsel informed Mr. Ramey,
7 Mr. Kubiak, and Ms. Kalra—all recipients of this email—that REA intended to file a motion to
8 dismiss. *Id.* Two weeks later, on January 30, 2024, Koji, in response, filed a voluntary notice of
9 dismissal of the Second Action pursuant to Rule 41(a)(1)(A)(i). Notice of Voluntary Dismissal,
10 *Koji II*, No. 3:23-cv-05752-LJC (N.D. Cal. Jan. 30, 2024), ECF No. 12. This Notice of Voluntary
11 Dismissal—signed by both Mr. Ramey and Ms. Kalra—states that it purports to be “without
12 prejudice” and states (without citation or support) that “each party shall bear its own costs,
13 expenses and attorneys’ fees.” *Id.* at 2.

14 On May 22, 2024, Koji—still represented by the Ramey firm—filed the complaint in this
15 Third Action against REA, again alleging infringement of the same ‘703 Patent. [Dkt. 1]. The
16 claims chart attached to the complaint in this Third Action is identical (or nearly identical) to the
17 claims chart Mr. Ramey sent to REA’s lawyer on January 23, 2024 in connection with the Second
18 Action and prior to dismissal of that case. *Compare* Dkt. 1-2 at 2-11, *with* Dkt. 19-1 at 329-38.
19 As with the claims chart sent in connection with the Second Action, the claims chart attached to
20 the complaint in this Third Action accuses REA’s PTX130W/PTX30W. [Dkt. 1-2 at 4]. Like the
21 claims chart sent by Mr. Ramey in connection with the Second Action, the claims chart attached to
22 the Third Action complaint includes excerpts from a data sheet for REA’s “PTX120W/PTX30W
23 Hardware Integration.” *Id.* Like the claims chart sent by Mr. Ramey in connection with the
24 Second Action, the claims chart attached to the This Action complaint explicitly states that the
25 PTX30W is included in the infringement accusation: “*Renesas Electronics's PTX130W/PTX30W*
26 *(MUST BE BOUGHT TOGETHER IN ORDER TO ACHIEVE POWER TRANSFER) is a wireless*
27 *power transfer system for wirelessly charging a powered device.*” *Id.* (emphasis in original).
28 And, just like the Second Action claims chart, the claims chart attached to the Third Action

1 complaint includes the same explicit accusations and images of the Renesas PTX30W product. *Id.*
2 at 6-8, 10-11 (identifying PTX30W as part of the accused “receiver” labeled as a “Listener”); *id.* at
3 9 (image labeled “PTX30W board” with accused PTX30W chip component circled in yellow).

4 Two days after commencing this Third Action (but before service of process), Mr. Ramey,
5 on behalf of Koji, sent a letter, dated May 24, 2024, directly to an in-house employee of REA (and
6 not their counsel), enclosing a copy of the complaint in this Third Action as well as a demand to
7 settle the case in its entirety for \$59,000. *Id.* at 374. The letter instructed REA to respond by
8 email to both Mr. Ramey and Mr. Kubiak. *Id.* The letter stated that the offer would be withdrawn
9 if REA responded to the complaint. *Id.*

10 On May 31, 2024, REA’s counsel sent a letter to Koji, stating that the Third Action was
11 “plainly barred under Federal Rule of Civil Procedure 41(a)(1)(B) and should be promptly
12 dismissed.” *Id.* at 376. REA’s counsel noted that “[t]he complaints are substantively identical and
13 the Second and Third actions appear to be largely cut-and-paste versions of the First Action.” *Id.*
14 REA’s counsel also noted that the fact that the dismissal of the Second Action included the phrase
15 “without prejudice” was legally irrelevant for purposes of the impact of Rule 41 under the two-
16 dismissal rule. *Id.* at 378. REA’s counsel further summarized the asserted reasons—previously
17 asserted in connection with the Second Action—why the PTX30W does not infringe. *Id.* REA’s
18 counsel also informed Koji’s counsel that “the facts strongly suggest that these cases were filed for
19 an improper purpose: to leverage the substantial cost of litigation to obtain a modest settlement
20 notwithstanding the absence of a meritorious claim.” *Id.* REA’s counsel reiterated that REA
21 might seek an award of its fees under § 285. *Id.* at 379. Instead of responding on the merits, on
22 June 12, 2024, Koji filed a notice of voluntary dismissal of this Third Action with prejudice
23 pursuant to Rule 41(a)(1)(a)(i). [Dkt. 12].

24 Following Koji’s voluntary dismissal of this Third Action, on June 26, 2024, REA filed the
25 instant motion, seeking reimbursement for the attorney fees it incurred in defending against the
26 Second and Third Actions, pursuant to 35 U.S.C. § 285, and seeking to have those amounts levied
27 against Koji’s counsel as sanctions, pursuant to 28 U.S.C. § 1927 and/or this Court’s inherent
28 authority. [Dkt. 18].

LEGAL STANDARDS

The so-called American Rule “generally requires each party to bear his own litigation expenses, including attorney’s fees, regardless whether he wins or loses.” *Fox v. Vice*, 563 U.S. 826, 832 (2011) (citing *Alyeska Pipeline Serv. Co. v. Wilderness Soc’y*, 421 U.S. 240, 247 (1975)). The general American Rule does not allow for fee-shifting by prevailing parties unless specifically authorized by law. *Peter v. Nantkwest, Inc.*, 589 U.S. 23, 29-30 (2019).

I. Attorneys’ Fees Under 35 U.S.C. § 285

Section 285 of the Patent Act provides that, in patent actions, a court may award “reasonable attorney fees to the prevailing party” in “exceptional cases.” 35 U.S.C. § 285. Whether to award such fees is governed by Federal Circuit law. *See Realtime Adaptive Streaming LLC v. Netflix, Inc.*, 41 F.4th 1372, 1378 (Fed. Cir. 2022) (“Federal Circuit precedent applies to a district court’s decision to award fees pursuant to § 285. *Blackbird Tech LLC v. Health in Motion LLC*, 944 F.3d 910, 914 (Fed. Cir. 2019) (‘We apply Federal Circuit case[] law to the § 285 analysis, as it is unique to patent law.’)).

“Under § 285, a district court ‘may award’ attorneys’ fees to ‘the prevailing party’ in ‘exceptional cases.’” *Realtime Adaptive Streaming*, 41 F.4th at 1378. “The text of § 285 . . . is patently clear. It imposes one and only one constraint on district courts’ discretion to award attorney’s fees in patent litigation: The power is reserved for ‘exceptional’ cases.” *Octane Fitness, LLC v. ICON Health & Fitness, Inc.*, 572 U.S. 545, 553 (2014).

“An ‘exceptional’ case is simply one that stands out from others with respect to the substantive strength of a party’s litigating position or the unreasonable manner in which the case was litigated.” *Dragon Intellectual Prop. LLC v. DISH Network LLC*, 101 F.4th 1366, 1369-70 (Fed. Cir. 2024) (quoting *Octane Fitness*, 572 U.S. at 554) (alterations omitted). “The party seeking fees must prove that the case is exceptional by a preponderance of the evidence[.]” *Energy Heating, LLC v. Heat-On-The-Fly, LLC*, 15 F.4th 1378, 1382 (Fed. Cir. 2021) (citing *Octane Fitness*, 572 U.S. at 557-58)). “[W]hether a patent case is exceptional is decided as a matter of discretion by a district court.” *OneSubsea IP UK Ltd. v. FMC Techs., Inc.*, 68 F.4th 1285, 1294 (Fed. Cir. 2023) (citing *Highmark Inc. v. Allcare Health Mgmt. Sys. Inc.*, 572 U.S.

559, 564 (2014)). “A district court must ‘provide a concise but clear explanation of its reasons for the fee award.’” *Elec. Comm’n Techs., LLC v. ShoppersChoice.com, LLC*, 963 F.3d 1371, 1376 (Fed. Cir. 2020) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983)).

“[A] district court makes the exceptional-case determination on a case-by-case basis considering the totality of the circumstances.” *Energy Heating*, 15 F.4th at 1382 (citing *Octane Fitness*, 572 U.S. at 554). There is “no precise rule or formula” for making this determination. *Octane Fitness*, 572 U.S. at 554 (citing *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 534 (1994)). Relevant factors may include “frivolousness, motivation, objective unreasonableness (both in the factual and legal components of the case) and the need in particular circumstances to advance considerations of compensation and deterrence.” *Id.* at 554 n.6 (quoting *Fogerty*, 510 U.S. at 534 n.19). “[A] district court may award fees in the rare case in which a party’s unreasonable conduct—while not necessarily independently sanctionable—is nonetheless so ‘exceptional’ as to justify an award of fees.” *Id.* at 555. “[A] case presenting either subjective bad faith or exceptionally meritless claims may sufficiently set itself apart from mine-run cases to warrant a fee award.” *Id.* (citation omitted).

However, courts do not award attorneys’ fees as “a penalty for failure to win a patent infringement suit.” *Id.* at 548. The legislative purpose of the fee-shifting provision is to prevent “gross injustice,” not to punish a party for losing. *Munchkin, Inc. v. Luv n’ Care, Ltd.*, 960 F.3d 1373, 1378 (Fed. Cir. 2020) (citation omitted).

“Because § 285 commits the determination whether a case is ‘exceptional’ to the discretion of the district court, that decision is to be reviewed on appeal for abuse of discretion.” *Highmark*, 572 U.S. at 563. The abuse-of-discretion standard applies to “all aspects of a district court’s § 285 determination.” *Id.* at 564. “Section 285 demands a simple discretionary inquiry; it imposes no specific evidentiary burden, much less such a high one. Indeed, patent-infringement litigation has always been governed by a preponderance of the evidence standard[.]” *Octane Fitness*, 572 U.S. at 557.

II. Sanctions Under 28 U.S.C. § 1927

“An attorney . . . who so multiplies the proceedings in any case unreasonably and

1 vexatiously may be required by the court to satisfy personally the excess costs, expenses, and
 2 attorneys’ fees reasonably incurred because of such conduct.” 28 U.S.C. § 1927. Whether to
 3 impose sanctions under § 1927 is governed by Ninth Circuit law. *United Cannabis Corp. v. Pure*
 4 *Hemp Collective, Inc.*, 66 F.4th 1362, 1367 (Fed. Cir. 2023) (“We review § 1927 motions under
 5 the law of the regional circuit.”). “The key term in the statute is ‘vexatiously’; carelessly,
 6 negligently, or unreasonably multiplying the proceedings is not enough.” *In re Girardi*, 611 F.3d
 7 1027, 1061 (9th Cir. 2010).

8 “[S]anctions pursuant to section 1927 must be supported by a finding of subjective bad
 9 faith.” *Lake v. Gates*, --- F.4th ---, 2025 WL 815191, at *5 (9th Cir. 2025) (quoting *Blixseth v.*
 10 *Yellowstone Mountain Club, LLC*, 796 F.3d 1004, 1007 (9th Cir. 2015)). “Bad faith is present
 11 when an attorney knowingly or recklessly raises a frivolous argument or argues a meritorious
 12 claim for the purpose of harassing an opponent.” *Id.* (quoting *Blixseth*, 796 F.3d at 1007)
 13 (alteration omitted). “A district court may find such bad faith ‘when an attorney has acted
 14 recklessly if there is something more,’ such as frivolousness, harassment, or an improper
 15 purpose.” *Indiezone, Inc. v. Rooke*, 720 Fed. Appx. 333, 337 (9th Cir. 2017). A “‘finding that the
 16 attorney recklessly or intentionally misled the court’ or ‘a finding that the attorney[] recklessly
 17 raised a frivolous argument which resulted in the multiplication of the proceedings’ amounts to the
 18 requisite level of bad faith. In addition, ‘recklessly or intentionally misrepresenting facts
 19 constitutes the requisite bad faith’ to warrant sanctions, as does ‘recklessly making frivolous
 20 filings.’” *Id.* (citations omitted).

21 “[W]ith § 1927 as with other sanction provisions, ‘district courts enjoy much discretion in
 22 determining whether and how much sanctions are appropriate.’” *Haynes v. City & Cnty. of S.F.*,
 23 688 F.3d 984, 987 (9th Cir. 2012) (quoting *Trulis v. Barton*, 107 F.3d 685, 694 (9th Cir. 1995))
 24 (alteration omitted).

25 **III. Sanctions Under the Court’s Inherent Authority**

26 District courts have inherent authority to manage their own affairs. *Chambers v. NASCO,*
 27 *Inc.*, 501 U.S. 32, 43 (1991). This includes the power to order appropriate sanctions as discipline.
 28 *Id.* A district court “may award attorneys’ fees when the interests of justice so require.” *Hall v.*

Cole, 412 U.S. 1, 4-5 (1973). A court has the inherent power to levy fee-based sanctions “when the losing party has ‘acted in bad faith, vexatiously, wantonly, or for oppressive reasons.’” *Octane Fitness*, 572 U.S. at 557 (quoting *Alyeska Pipeline*, 421 U.S. at 258-59) (alterations omitted).

Whether to impose sanctions in the form of attorneys’ fees under this Court’s inherent authority is governed by Ninth Circuit law. *Realtime Adaptive Streaming*, 41 F.4th at 1377 (“Because a district court’s inherent power to impose sanctions in the form of attorneys’ fees is not a substantive patent question, we apply the law of the regional circuit, here, the Ninth Circuit.”).

To impose sanctions under its inherent power, the Court must find “bad faith or conduct tantamount to bad faith.” *Fink v. Gomez*, 239 F.3d 989, 994 (9th Cir. 2001). “For purposes of imposing sanctions under the inherent power of the court, a finding of bad faith does not require that the legal and factual basis for the action prove totally frivolous; where a litigant is substantially motivated by vindictiveness, obduracy, or mala fides, the assertion of a colorable claim will not bar the assessment of attorney’s fees.” *Id.* at 992 (quoting *In re Itel Secs. Litig.*, 791 F.2d 672, 675 (9th Cir. 1986)) (internal quotation marks omitted). “[S]anctions are justified when a party acts *for an improper purpose*—even if the act consists of making a truthful statement or a non-frivolous argument or objection.” *Id.* (citing *Itel*, 791 F.2d at 675) (emphasis in original).

The Court must exercise its inherent power with “restraint and discretion.” *Caputo v. Tungsten Heavy Powder Inc.*, 96 F.4th 1111, 1148 (9th Cir. 2024) (quoting *Chambers*, 501 U.S. at 44). Any award must “go no further than to redress the wronged party ‘for losses sustained’; it may not impose an additional amount as punishment for the sanctioned party’s misbehavior.” *Lu v. United States*, 921 F.3d 850, 859 (9th Cir. 2019) (quoting *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 108 (2017)).

ANALYSIS

I. Whether to Award Attorneys’ Fees under § 285

a. Whether REA is the Prevailing Party

To be eligible for an award of fees under § 285, REA must first be the prevailing party. The Parties dispute whether, and the extent which, REA is the “prevailing party” for purposes of § 285. Whether a litigant is a prevailing party in a patent case is a question of Federal Circuit law.

1 *SSL Servs., LLC v. Citrix Sys., Inc.*, 769 F.3d 1073, 1086 (Fed. Cir. 2014) (“In a patent case,
 2 Federal Circuit law governs the determination of which party has prevailed.”). “[F]or there to be a
 3 prevailing party, there must be: (1) a change in the parties' legal relationship, and (2) the change
 4 must be judicially sanctioned or otherwise carry sufficient judicial imprimatur.” *Buckhannon Bd.*
 5 *& Care Home, Inc. v. W.V. Dep't of Health & Human Res.*, 532 U.S. 598, 605 (2001). “The
 6 touchstone of the prevailing party inquiry must be the material alteration of the legal relationship
 7 of the parties. This change must be marked by judicial imprimatur.” *O.F. Mossberg & Sons, Inc.*
 8 *v. Timney Triggers, LLC*, 955 F.3d 990, 992 (Fed. Cir. 2020) (quoting *CRST Van Expedited, Inc.*
 9 *v. EEOC*, 578 U.S. 419, 422 (2016)) (alteration omitted). A litigant “need not prevail on the
 10 merits to be classified as a ‘prevailing party.’” *Id.* (citation omitted).

11 The Federal Circuit has held that a defendant “prevails” as the result of a Rule 41 dismissal
 12 where the dismissal has “sufficient judicial imprimatur to constitute a ‘judicially sanctioned
 13 change in the legal relationship of the parties.’” *Highway Equip. Co. v. FECO, Ltd.*, 469 F.3d
 14 1027, 1034 (Fed. Cir. 2006) (quoting *Buckhannon*, 532 U.S. at 605). Such a change in the legal
 15 relationship of the parties includes a voluntary dismissal with prejudice. *Raniere v. Microsoft*
 16 *Corp.*, 887 F.3d 1298, 1307 (Fed. Cir. 2018) (“[T]he dismissal of a claim with prejudice, however,
 17 is a judgment on the merits under the law of the Federal Circuit.”); *see also Highway Equip.*, 469
 18 F.3d at 1032 (“[T]he question of the effect of a dismissal with prejudice on 35 U.S.C. § 285 is a
 19 matter of Federal Circuit law.”).

20 With regard to this Third Action, the procedural history demonstrates that REA is the
 21 prevailing party. As discussed above (and in further detail in the Court’s March 26, 2025 Order),
 22 Koji authorized its counsel to first file this action on May 22, 2024. *See* Dkt. 28-2 at ¶ 14 (“I and
 23 my client’s representative, Carlos Gorrichategui, Ph.D, discussed whether the sales of the newly
 24 charted product had been included in the prior numbers and came to the conclusion it was not
 25 based on what had been provided to Renesas in the prior lawsuits. . . . Accordingly, Koji asked
 26 Ramey LLP to file a new lawsuit based on the newly charted product created by Sunatori and
 27 Ramey LLP.”); Dkt. 28-17 at ¶ 11 (“On April 25, 2024, I told William Ramey that my team and I
 28 revisited the Renesas Electronics claim chart and wanted to seek damages on a new product we

1 charted. I authorized the filing of the Third suit if we could. William Ramey informed me that we
2 could file the Third lawsuit.”).

3 In response to correspondence from REA’s counsel, Koji agreed to voluntarily dismiss this
4 case *with prejudice* on June 12, 2024. See Dkt. 28-17 at ¶¶ 12-13 (“On May 31, 2024, William
5 Ramey forwarded us ‘2024.05.31 Letter to Koji IP re third case.pdf[.]’ I discussed the matter with
6 William Ramey and authorized him to dismiss the suit to avoid a fight on a motion for
7 sanctions.”); see also Dkt. 28-2 at ¶¶ 15-18 (“Renesas’s lawyer responded by letter on May 31,
8 2024, that Koji’s lawsuit was foreclosed as it had been dismissed twice. The letter asked that the
9 lawsuit be promptly dismissed. After further discussions with Renesas’s counsel, the lawsuit was
10 dismissed with prejudice on June 12, 2024. . . . Koji instructed me to seek a dismissal with each
11 party bearing its own fees and costs but Renesas refused. Rather than fight motion practice and
12 increase the costs for both sides, I dismissed *with prejudice* Koji’s lawsuit over all products that
13 might infringe the ‘703 patent.”) (emphasis in original).

14 The notice of voluntary dismissal filed by Koji explicitly states that the dismissal is with
15 prejudice. [Dkt. 12]. A notice of voluntary dismissal operates immediately and does not require a
16 further court order to effectuate the dismissal. See Fed. R. Civ. P. 41(a)(1)(A) (“Without a Court
17 Order . . . the plaintiff may dismiss an action without a court order[.]”); *Com. Space Mgt. Co. v.*
18 *Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (“Because the dismissal is effective on filing and
19 no court order is required, ‘[t]he filing of a notice of voluntary dismissal with the court
20 automatically terminates the action as to the defendants who are the subjects of the notice.’”).
21 Analogously, the Federal Circuit has held that “a voluntary dismissal with prejudice under Federal
22 Rule of Civil Procedure 41(a)(2) ‘has the necessary judicial imprimatur to constitute a judicially
23 sanctioned change in the legal relationship of the parties, such that the district court properly could
24 entertain [the defendant’s] fee claim under 35 U.S.C. § 285.’” *Raniere v. Microsoft Corp.*, 887
25 F.3d 1298, 1307-08 (Fed. Cir. 2018) (holding that order of dismissal with prejudice under Rule
26 41(b) suffices to make defendants prevailing parties, where “[t]he dismissal of a claim with
27 prejudice, however, is a judgment on the merits under the law of the Federal Circuit”).

28 Accordingly, the Court finds that REA is the prevailing party in this Third Action because

1 Koji voluntarily dismissed this case *with* prejudice. By definition, a dismissal with prejudice
 2 operates to change the legal relationship of the Parties with respect to the disputes raised in the
 3 Complaint in this action (for example, with regard to the Parties’ legal relationship under the
 4 doctrines of *res judicata* or claim preclusion, issues on which the Federal Circuit applies regional
 5 circuit law. *See Ford-Clifton v. Dep’t of Veterans Affairs*, 661 F.3d 655, 660 (Fed. Cir. 2011) (“A
 6 voluntary dismissal with prejudice is an adjudication on the merits for purposes of *res judicata*.”).

7 With regard to the Second Action, as an initial matter, the Court notes that the
 8 determination of the impact of the two dismissals (of the First and Second Actions) is now ripe for
 9 adjudication because it has been raised now in this Third Action. *See Com. Space Mgt.*, 193 F.3d
 10 at 1080. The Court finds that REA is also the prevailing party in the Second Action by operation
 11 of the “two-dismissal rule” under Rule 41(a)(1)(B). Specifically, Rule 41(a)(1)(B) provides, in
 12 pertinent part, that “[i]f the plaintiff previously dismissed any . . . action based on or including the
 13 same claim, a notice of dismissal operates as an adjudication on the merits.” As detailed above
 14 and in March 26, 2025 Order, Koji filed two identical cases (the first in Colorado, the second in
 15 this Court) against REA, asserting the exact same patent against the exact same products. *See* Dkt.
 16 28-2 at 10 n.7 (“The claim chart filed with the first lawsuit was the same claim chart filed with the
 17 second lawsuit.”); Dkt. 28-17 at ¶ 5 (“William Ramey informed me that we would likely lose the
 18 venue motion and I authorized him to dismiss the Colorado [sic], if we could refile elsewhere. I
 19 was informed the case would be refiled in California.”).

20 Mr. Gorrichategui of Koji authorized Mr. Ramey to dismiss the First Action in Colorado,
 21 and thus, Koji voluntarily dismissed the First Action by filing a voluntary notice of dismissal
 22 signed by Mr. Ramey as counsel for Koji—and not by stipulation signed by both Parties—under
 23 Rule 41(a)(1)(A)(i). [Dkt. 19-1 at 114]. After refileing the identical case here in the Northern
 24 District of California, Mr. Gorrichategui of Koji authorized dismissal, and thus, Koji voluntarily
 25 dismissed that Second Action, again by filing a voluntary notice of dismissal under Rule
 26 41(a)(1)(A)(i). [Dkt. 19-1 at 371]; *see also* Dkt. 28-2 at ¶¶ 11-13 (“On November 8, 2023, I had
 27 Susan Kalra refile the lawsuit in the Northern District of California and shortly thereafter began
 28 discussions with counsel for Renesas. . . . The lawsuit was dismissed due to the low sales

1 volume.”); Dkt. 28-17 at ¶ 5 (“Based on low sales volumes I authorized the dismissal of the
2 lawsuit due to the low sales volumes.”).

3 The Federal Circuit has recognized that the two-dismissal rule under Rule 41(a)(1)(B) “by
4 its terms applies only if ‘the plaintiff’ (in the action whose dismissal would become an
5 adjudication on the merits) previously dismissed an action (based on or including the same claim).
6 The plaintiff in the second action must be the same person as the plaintiff in the first action at the
7 time of the voluntary dismissal.” *Astornet Techs. Inc. v. BAE Sys.*, 802 F.2d 1271, 1281 (Fed. Cir.
8 2015). Here, there is no dispute that Koji is the same plaintiff in the First Action and the Second
9 Action; there is no dispute that the cause of action asserting the same ‘703 patent in the Second
10 Action was identical to the First Action (that is, the Second Action was a “refiled” version of the
11 First Action with the identical claims chart attached to the complaints in each, with the only
12 difference being the venue); and there is no dispute that Koji filed notices of voluntary dismissal
13 in both the First Action and the Second Action.

14 Koji’s notice of voluntary dismissal of the Second Action facially states that the dismissal
15 was *without* prejudice, but that labelling is of no legal import. “[T]he label a plaintiff attaches to a
16 second Rule 41(a)(1) dismissal is irrelevant if a subsequent action is filed ‘based on or including
17 the same claim,’ because Rule 41(a)(1) itself instructs that such a dismissal ‘operates as an
18 adjudication upon the merits.’” *Com. Space Mgt.*, 193 F.3d at 1080; *see also Vanover v. Bohnert*,
19 11 Fed. Appx. 679, 680-81 (8th Cir. 2001); 9 CHARLES ALAN WRIGHT & ARTHUR R. MILLER,
20 FEDERAL PRACTICE AND PROCEDURE § 2368 (4th ed.) (“When a second dismissal is by notice
21 under Rule 41(a), it is, by operation of the terms of the Federal Rule itself, an adjudication on the
22 merits; thus, it is with prejudice *even if the notice states that the dismissal is without prejudice.*”)
23 (emphasis added). While the Federal Circuit does not appear to have addressed the specific issue
24 of “labelling” a second notice of dismissal, the great weight of precedent makes clear that a
25 plaintiff cannot avoid the effect of Rule 41(a)(1)(B) merely by adding “without prejudice” to the
26 dismissal notice. Indeed, the text of the rule expressly states that the dismissal of the second case
27 “operates” as an adjudication on the merits—meaning that the operation or effect of the dismissal
28 is a judgment on the merits, without providing any exception for the form or textual attempts to

1 avoid that operation. *See Robertshaw-Fulton Controls Co. v. Noma Elec. Corp.*, 10 F.R.D. 32, 34
 2 (D. Md. 1950) (“It is clear from this language that the plaintiff in the present case could not, by the
 3 mere recital in its notice of dismissal of July 22, 1949 that such notice is ‘without prejudice and
 4 without costs,’ defeat the express language of the Rule above quoted [Rule 41(a)(1)(B)].”). Koji’s
 5 position is not well-reasoned, because a party could avoid the operation of Rule 41(a)(1)(B) by
 6 merely adding the magic language “without prejudice” in a second notice of dismissal, thus
 7 rendering the Rule ineffective by easy and unconstrained expedient.

8 While the Parties have not identified Federal Circuit precedent affirming an award of fees
 9 based on a finding of a prevailing party under Rule 41(a)(1)(B)’s two-dismissal rule, the Federal
 10 Circuit has recognized the two-dismissal rule’s reach. Specifically, in *Astornet*, the Federal
 11 Circuit recognized that the two-dismissal rule applies “in the action whose dismissal would
 12 become an adjudication on the merits” where the same plaintiff had “previously dismissed an
 13 action (based on or including the same claim).” 802 F.3d at 1281 (finding two-dismissal rule did
 14 not apply to the facts in that case). By operation of Rule 41(a)(1)(B), a notice of voluntary
 15 dismissal in the second case operates as an adjudication on the merits and a dismissal with
 16 prejudice is “tantamount to a decision on the merits.” *Raniere*, 887 F.3d at 1307. The Supreme
 17 Court has held that a decision on the merits is not required for a party to be found the “prevailing
 18 party.” *CRST Van Expedited, Inc. v. EEOC*, 578 U.S. 419, 431-32 (2016). Analogously, the
 19 Federal Circuit has held that “as a matter of patent law” a dismissal with prejudice by court order
 20 under Rule 41(a)(2) “has the necessary judicial imprimatur to constitute a judicially sanctioned
 21 change in the legal relationship of the parties, such that the district court properly could entertain
 22 [defendant] FECO’s fee claim under 35 U.S.C. § 285.” *Highway Equip.*, 469 F.3d at 1035.

23 The Federal Circuit has made clear that the impact of two dismissals under Rule
 24 41(a)(1)(B) may only be raised and decided in a third case, if and when a third case is filed. *Com.*
 25 *Space Mgmt.*, 193 F.3d at 1080. As such, the instant Order in this Third Action is by definition a
 26 court order (and “judicial imprimatur”) which constitutes a judicially sanctioned change in the
 27 legal relationship of the Parties here. That is, to the extent that the notice of dismissal of the
 28 Second Action, standing in isolation, somehow does not have sufficient judicial imprimatur, this

1 very Order—which finds that the effect of the voluntary dismissal of the Second Action operates
 2 as an adjudication on the merits and which could not issue until this Third Action—constitutes a
 3 judicially sanctioned and recognized change in the legal relationship of the Parties that was
 4 effectuated by that second dismissal.

5 Other district courts faced with this scenario have concluded that the two-dismissal rule
 6 results in an adjudication on the merits and is therefore sufficient to confer “prevailing party”
 7 status on the defendant for purposes of § 285. *See, e.g., Realtime Adaptive Streaming LLC v.*
 8 *Netflix, Inc.*, No. CV-19-6361-GW-JCx, 2020 WL 8024356, at *3 (C.D. Cal. Nov. 23, 2020), *aff’d*
 9 *on other grounds*, 41 F.4th 1372 (Fed. Cir. 2022); *Young Lee v. Summit Trustee Servs., LLC*, No.
 10 CV 19-3814-DMG (Ex), 2020 WL 10313718, at *1 (C.D. Cal. Nov. 20, 2020) (“[U]nder the ‘two
 11 dismissal rule,’ the second dismissal operates as an adjudication on the merits of allegations of
 12 wrongful foreclosure, quiet title, violation of financial code, and unfair competition,
 13 notwithstanding that Plaintiff characterized the dismissal as ‘without prejudice.’”); *Uniloc USA,*
 14 *Inc. v. Blackberry Corp.*, No. 3:18-cv-1883-N, 2021 WL 12104812, at *1 (N.D. Tex. July 1,
 15 2021). The Court is persuaded by these cases and their reasoning.

16 Accordingly, the Court finds that REA is the prevailing party in both the Second Action
 17 and this Third Action.

18 **b. Whether the Second and Third Actions are “Exceptional”**

19 In evaluating whether a case is “exceptional” for purposes of § 285, the Court has
 20 discretion to consider various non-exclusive factors, including “the litigant's objective
 21 unreasonableness in litigating the case, subjective bad faith, frivolousness, motivation, and the
 22 need in particular circumstances to advance considerations of compensation and deterrence.”
 23 *Bayer CropScience AG v. Dow AgroSciences LLC*, 851 F.3d 1302, 1306 (Fed. Cir. 2017) (citing
 24 *Octane Fitness*, 572 U.S. at 554 & n.6).

25 Koji’s Litigating Position

26 A case presenting “exceptionally meritless claims may sufficiently set itself apart from
 27 mine-run cases to warrant a fee award.” *Octane Fitness*, 572 U.S. at 555. An objectively baseless
 28 patent case is one in which the patentee’s assertions—whether manifested in its infringement

1 allegations or its claim construction positions—are “such that no reasonable litigant could
 2 reasonably expect success on the merits.” *Taurus IP, LLC v. DaimlerChrysler Corp.*, 726 F.3d
 3 1306, 1327 (Fed. Cir. 2013) (quoting *Dominant Semiconductors Sdn. Bhd. v. OSRAM GmbH*, 524
 4 F.3d 1254, 1260 (Fed. Cir. 2008)); *Forest Labs., Inc. v. Abbott Labs.*, 339 F.3d 1324, 1330 (Fed.
 5 Cir. 2003) (“A frivolous infringement suit is one which the patentee knew, or on reasonable
 6 investigation, should have known, was baseless.”).

7 Courts in this District have found that a plaintiff’s failure to adequately investigate their
 8 patent infringement claim “weighs in favor of finding that [the] case is exceptional.” *Yufa v. TSI*
 9 *Inc.*, No. 09-cv-01315-KAW, 2014 WL 4071902, at *3 (N.D. Cal. Aug. 14, 2014) (awarding §
 10 285 fees where the plaintiff failed to purchase or test any of the accused products to support its
 11 infringement claims); *IPVX Patent Holdings, Inc. v. Voxernet LLC*, No. 5:13-cv-01708 HRL, 2014
 12 WL 5795545, at *6 (N.D. Cal. Nov. 6, 2014).

13 As discussed in detail in this Court’s March 26, 2025 Order, it is clear that Koji’s counsel
 14 conducted zero (or near-zero) pre-filing investigation regarding the effect of the dismissal of the
 15 Second Action on Koji’s ability to file this Third Action under the “two dismissal” rule of Rule
 16 41(a)(1)(B). [Dkt. 21]. Koji admits that the First Action filed in Colorado was identical to the
 17 Second Action filed in this Court. [Dkt. 28 at 16 (“Koji admits that it refiled the same
 18 infringement allegations it previously dismissed in Colorado in the Northern District of
 19 California.”)]. Koji admits that it voluntarily dismissed the First Action under Rule 41 by notice.
 20 *Id.* at 15. And Koji admits that it voluntarily dismissed the identical Second Action under Rule 41
 21 by notice. *Id.* at 16-17. Because Koji previously dismissed the same claim in the First Action, the
 22 notice of dismissal in the Second Action operated as an adjudication on the merits. Fed. R. Civ. P.
 23 41(a)(1)(B).

24 At the August 22, 2024 hearing, Ms. Kalra was unable to identify any pre-filing inquiry by
 25 herself (or by any other Ramey LLP attorney) regarding Rule 41’s effect here, and regarding
 26 whether or not the complaint in this Third Action was warranted by existing law or any other
 27 permissible basis under Rule 11. Ms. Kalra was equally unable to identify whether any of the
 28 Ramey LLP lawyers performed any pre-filing inquiry as to the impact of the dismissal filed in the

1 Second Action prior to the filing of that notice of dismissal. At the hearing and in the briefing on
2 the instant motion, Plaintiff’s counsel was unable to cite any law of which they were aware prior
3 to filing the complaint in this Third Action which reasonably supported the position that the
4 dismissals of the complaints in the previous two actions avoided an adjudication on the merits
5 under Rule 41.

6 In the opposition to the fees motion here, Koji argues that its “actions in filing multiple
7 lawsuits have been explained and have presented ‘a persuasive explanation for the course of
8 litigation’ and therefore Koji would not be liable under Rule 41 either.” [Dkt. 24 at 20-21 (citing
9 *Milkcrate Athletics, Inc. v. Adidas Am., Inc.*, 619 F. Supp. 3d 1009 (C.D. Cal. 2022)). The
10 *Milkcrate* case cited by Koji does *not* discuss an exception to the dispositive effect of the two prior
11 dismissals under Rule 41.

12 In *Milkcrate*, the issue was whether or not the Court should award costs and fees to the
13 defendant under Federal Rule of Civil Procedure 41(d). *Id.* at 1024-28; *see* Fed. R. Civ. P. 41(d)
14 (“If a plaintiff who previously dismissed an action in any court files an action based on or
15 including the same claim against the same defendant, the court . . . may order the plaintiff to pay
16 all or part of the costs of that previous action[.]”). Indeed, the quote from *Milkcrate* cited by
17 Koji’s opposition brief here is taken out of context—the full text of the sentence states that “[a]n
18 ‘award under Rule 41(d) is appropriate’ where ‘the [movant] has failed to present a persuasive
19 explanation for the course of litigation’ and the nonmovant shows it has ‘incurred needless
20 expenditures as a result.’” *Milkcrate*, 619 F. Supp. 3d at 1025. *Milkcrate* was concerned with
21 whether to award costs to the defendant under Rule 41(d), not whether to award fees under § 285.
22 Indeed, Koji itself confusingly argues that “Renesas did not move under Rule 41.” [Dkt. 24 at 20].

23 Further, even if somehow the “persuasive explanation for the course of litigation” rule in
24 *Milkcrate* for avoiding costs under Rule 41(d) were somehow analogized to or extended by
25 implication to Rule 41(a)(1)(B), the application of that rule in *Milkcrate* is contrary to Koji’s
26 opposition. In *Milkcrate*, the court actually *awarded* costs to the defendant because the plaintiff
27 filed a second action after dismissing a previous action, where the allegations in both cases
28 concerned “the same operative facts and include[d] the same copyright infringement claim at

1 issue[.]” 619 F. Supp. 3d at 1025-26. That is the same situation here—Koji filed this Third
2 Action even after voluntarily dismissing the previous two cases, even though all three cases
3 concerned the same operative facts and included the same patent infringement claims at issue. If
4 anything, *Milkcrate* teaches that an award of costs is appropriate in the analogous factual situation
5 as is present here, due to a failure to present a “persuasive explanation for the course of litigation”
6 where multiple suits are filed and dismissed.

7 At the hearing on the Order to Show Cause, Mr. Ramey admitted that *Milkcrate* is not
8 legal support for an exception under Rule 41(a)(1)(B) for filing the complaint in this Third Action
9 after previously dismissing two identical or substantially identical prior complaints. Mr. Ramey
10 also admitted that *Milkcrate* is not support for the assertion that he somehow “knew” based on his
11 experience of any such exception to Rule 41 that would have allowed or excused the filing of the
12 third complaint here. The record shows that Koji (and its lawyers) did not analyze *Milkcrate* or
13 any definitive cases on the issues as part of any pre-filing diligence before filing the Third Action
14 complaint here. In his declaration in opposition to the instant motion, Mr. Ramey states that, in
15 responding to REA’s counsel *after* the Third Action was already filed, “[o]ur opinion was that the
16 dismissal of the Colorado lawsuit did not count as a prior dismissal for purposes of Rule 41 as it
17 was done on venue grounds and to conserve the resources of the parties. However, further
18 research did not provide a definitive case on the issues so Koji decided to dismiss the lawsuit with
19 prejudice before Renesas would be required to expend resources answering or otherwise
20 responding.” [Dkt. 24-2 at ¶ 17]. Similarly, in response to the Order to Show Cause, the Ramey
21 law firm attorneys simply refer to their unexplained “opinion” that the dismissal of the first
22 lawsuit in Colorado somehow did not count for purposes of Rule 41, that based on their years of
23 experience there are unidentified “exceptions” to Rule 41, and that they “believed” the
24 circumstances allowed them to refile the complaint. [Dkt. 28-1 at ¶ 12; Dkt. 28-2 at ¶ 17; Dkt. 28-
25 3 at ¶ 20].

26 Koji has provided no legal support which justifies the filing of the third complaint here. At
27 best, Koji argues that the prior dismissals were motivated by a desire to reduce costs and out of
28 concern for the convenience to the Parties. [Dkt. 24 at 8-10]. Koji argues that the dismissal of the

1 First Action in Colorado occurred after Koji received sworn statements from REA “that likely
2 established that the location relied upon for venue was not a location of Renesas, Koji dismissed
3 its lawsuit on September 6, 2023 without burdening the court or Renesas to address the
4 arguments.” *Id.* at 8. Koji’s brief concludes this argument with a circular statement that “[t]he
5 dismissal was filed solely to effectuate dismissal.” *Id.* Similarly, with regard to the Second
6 Action, Koji argues that REA “maintained that the sales volume of the accused product was very
7 low. Koji and its counsel looked for additional products from [REA] but were unable to locate
8 any at the time. Therefore, to not burden [REA], on January 30, 2024, Koji agreed to dismiss
9 without prejudice its lawsuit, to which [REA] agreed. The lawsuit was dismissed due to the low
10 sales volume.” *Id.*

11 There is no provision of Rule 41 which somehow exempts the impact of a voluntary
12 dismissal if it is allegedly to avoid burdening the court or parties to address arguments, or if it is
13 due to low sales volumes of accused products. The Ninth Circuit has held that Rule 41 “does not
14 consider the plaintiff’s reasons for seeking a voluntary dismissal” and that “[t]he Rule does not
15 require an inquiry into the circumstances of the two dismissals.” *Lake at Las Vegas Investors*
16 *Grp., Inc. v. Pac. Malibu Devel. Corp.*, 933 F.2d 724, 727 (9th Cir. 1991); *Thomas v. Wells Fargo*
17 *Bank, N.A.*, No. C 13-02065 JSW, 2013 WL 5313458, at *3 (N.D. Cal. Sept. 23, 2013) (“[T]he
18 Rule [Rule 41] does not to provide the Court with any discretion to avoid the impact of the two–
19 dismissal rule based on the Plaintiff’s understanding or motivation in dismissing the second
20 action.”). Indeed, in response to the Order to Show Cause, Koji’s lawyers admitted that the First
21 Action was dismissed because Koji determined it would lose a motion to dismiss or transfer for
22 improper venue, and thus, not merely to reduce burdens. [Dkt. 28 at 15 (“The first [lawsuit] was
23 dismissed by Koji when it determined that it would likely lose a venue motion.”)]. At the Order to
24 Show Cause hearing, Mr. Ramey conceded that he was unable to locate any case law supporting
25 the position that voluntary dismissal for “convenience” or to reduce costs (by avoiding a fight over
26 venue) is exempt from Rule 41’s impact. [Dkt. 40 at 50:22-51:20].

27 More significantly, Koji proffers no evidence that Koji (or its lawyers) performed any
28 diligence on the Rule 41 issue prior to filing this Third Action. Instead, Koji admits that the

1 reason for filing this Third Action was because “sales of the newly charted product” were not
2 included in Koji’s “prior numbers” for damages calculations. [Dkt. 24 at 4]. That is, Koji’s only
3 identified pre-filing investigation was to find a basis to assert higher damages claims and demand
4 a higher settlement, which Koji did immediately upon filing this Third Action, by raising its
5 demand from five thousand dollars at the end of the Second Action to fifty-nine thousand dollars
6 upon filing the Third Action. [Dkt. 19-1 at 151, 374].

7 As discussed in detail in the March 26, 2025 Order, the Court is deeply troubled by Koji’s
8 lack of diligence and apparent disregard for the two-dismissal rule issue prior to filing the Third
9 Action. The two-dismissal rule “was intended to eliminate ‘the annoying of a defendant by being
10 summoned into court in successive actions and then, if no settlement is arrived at, requiring him to
11 permit the action to be dismissed and another one commenced at leisure.’” *Cooter & Gell v.*
12 *Hartmax Corp.*, 496 U.S. 384, 397 (1990) (citation omitted). Koji has identified no legally
13 permissible excuses for its failures to investigate the Rule 41 issues, and its post-hoc arguments
14 about reducing burdens or convenience are simply irrelevant to Rule 41 (as is the only case law
15 cited by Koji).

16 The Court **FINDS** that Koji’s filing of the complaint in this Third Action was frivolous and
17 legally baseless, and lacked adequate pre-suit diligence on the Rule 41 issues. The timing of
18 Koji’s immediate settlement demand after filing the Third Action, and Koji’s avowed reason for
19 filing the Third Action (simply to demand a higher settlement figure than was demanded during
20 the Second Action) was an improper motivation and amounts to harassment. The Court **FINDS**
21 that Koji litigated with subjective bad faith, that Koji’s approach to litigating this Third Action
22 was objectively unreasonable where no reasonable litigant could reasonably expect success on the
23 merits, and that Koji’s actions were at least reckless, if not willfully blinding themselves to the
24 defects in the Third Action, coupled with more conduct (including making misrepresentations to
25 this Court, as discussed below). The Court therefore **FINDS** that the Third Action is an
26 exceptional case.

27 With regard to the Second Action, as detailed above, during the course of that lawsuit Koji
28 continued to add accused products to the case. Specifically, Renesas’s counsel sent Koji’s counsel

1 a letter on December 22, 2023 detailing numerous arguments why the infringement allegations
2 against the exemplary product accused in the claims chart attached to the complaint. [Dkt. 19-1 at
3 132]. In response, on January 3, 2024, Mr. Ramey sent an email adding three additional products
4 to Koji's infringement contentions in the case. *Id.* at 140. After investigating, on January 18,
5 2024 REA's counsel replied by letter, explaining that two of the new accused products added to
6 the Second Action are prior art to the '703 patent, attaching as evidence data sheets for the two
7 prior art products. *Id.* at 158. Koji never responded to that letter and never commented on the
8 issue of whether it had accused prior art products of infringement. Instead, on January 23, 2024,
9 Mr. Ramey sent REA's counsel a claims chart purporting to show infringement of '703 claim 1 by
10 the third product (the PTX130W/PTX30W) listed in the January 3, 2024 email. *Id.* at 328-38.

11 "A century-old axiom of patent law holds that a product 'which would literally infringe if
12 later in time anticipates if earlier.'" *Upsher-Smith Labs. v. PamLab, L.L.C.*, 412 F.3d 1319, 1322
13 (Fed. Cir. 2005). The Federal Circuit has affirmed the grant of summary judgment of invalidity of
14 a patent where the patentee accused the defendant's products of infringing the patent and where it
15 turned out that those accused products were for sale in the prior art time period. *See Vanmoor v.*
16 *Wal-Mart Stores, Inc.*, 201 F.3d 1363, 1366-67 (Fed. Cir. 2000) ("[T]he entire basis of the patent
17 infringement claim is Vanmoor's (the patentee's) contention that the accused cartridges infringe
18 the '331 patent. . . . Although Wal-Mart and the manufacturers bore the burden of proving that the
19 cartridges that were the subject of the pre-critical date sales anticipated the '331 patent, that burden
20 was satisfied by Vanmoor's allegation that the accused cartridges infringe the '331 patent."); *see*
21 *also Gammino v. Sw. Bell Tel., L.P.*, 512 F. Supp. 2d 626, 635-38 (N.D. Tex. Mar. 23, 2007) ("In
22 this case, [patentee] Gammino has accused two of [defendant] SWB's call-blocking services. . . .
23 These services were implemented in SWB's central office switches and were publicly available for
24 purchase before Gammino even conceived of his invention. . . . [SWB's] burden of proving
25 anticipation was satisfied by Gammino's allegation that the accused call-blocking services
26 infringed his patents. Stated differently, the fact that Gammino bases his infringement claims
27 against SWB on SWB's own prior art call-blocking services renders the claims of his patents
28 invalid."), *aff'd*, 267 Fed. Appx. 949 (Fed. Cir. 2008) ("No purpose would be served by simply

1 retracing the analysis of the district court, which is fully sufficient to resolve this appeal.”).

2 The factual situation here is similar to those in *Realtek Semiconductor Corp. v. Marvell*
3 *Semiconductor, Inc.*, No. C-04-4265 MMC, 2005 WL 3634617 (N.D. Cal. Nov. 21, 2005). There,
4 the patentee sued Marvell for infringing a Realtek patent, and Realtek accused several Marvell
5 products by model number. During discovery, Marvell established that Realtek was in possession
6 of a report from a consultant which showed the prior art date of the accused Marvell product.
7 Thus, after Marvell showed in discovery that one of the specifically accused Marvell products was
8 prior art to the Realtek patent, Marvell served a Rule 11 notice on Realtek and filed a motion for
9 summary judgment of invalidity of the asserted patent because the accused Marvell product was
10 prior art to the patent. Subsequently, Realtek granted Marvel a covenant not to sue and sought
11 dismissal of the case. Marvell then filed a motion for attorneys’ fees under § 285. *Id.* at *1-2.

12 In finding the case exceptional, Judge Chesney wrote that “[patentee] Realtek initiated the
13 instant litigation ‘without investigating the facts staring them in the face.’ Moreover, Realtek does
14 not explain why it continued to pursue the instant lawsuit after April 8, 2005, the date on which
15 Marvell produced sales data showing numerous sales of the accused product during the year 2000.
16 . . . Realtek knew or should have known, before filing the instant lawsuit, that it had no chance of
17 success on the merits of its infringement claim, because Marvell's allegedly infringing product was
18 made and sold before the invention date of the '608 patent.” *Id.* at *5-6. Judge Chesney held that
19 Realtek acted in subjective bad faith in filing the action, ultimately awarding Marvell roughly
20 \$550,000 in fees and expenses. *Id.* at *6, 8.

21 Here, as in *Realtek*, the plaintiff accused products of infringing, where those products were
22 shown by documentary evidence to be prior art. Here, as in *Realtek*, the plaintiff continued to
23 pursue the case even after being made aware that it had accused prior art products of infringement,
24 after documentary evidence showing the products are prior art was disclosed, and after defense
25 counsel raised concerns about Rule 11 violations, sanctions under § 1927, and attorneys’ fees
26 under § 285. [Dkt. 19-1 at 158-59]. Here, as in *Realtek*, the plaintiff did not offer persuasive
27 explanation for its lack of diligence in investigating the products prior to accusing them of
28 infringement, and did not offer persuasive explanation for why it continued to pursue the lawsuit

1 for some period of time after being made aware of the facts. While the time frame here is shorter
2 than in *Realtek* (Koji accused the prior art products of infringement on January 3, 2024 and
3 ultimately filed the notice of voluntary dismissal of the Second Action on January 30, 2024), the
4 conduct is strikingly similar.

5 As noted, Koji never responded to REA about the fact that Koji accused two prior art
6 products of infringing the ‘703 patent. And in the opposition to the instant motion, Koji does not
7 provide any persuasive argument on this issue. As discussed in the detailed timeline above, after
8 Koji added the new accused products to the Second Action (on January 3, 2024), Koji sent two
9 emails on January 12, 2024, seeking a settlement counteroffer and making a settlement demand of
10 five thousand dollars. *Id.* at 318-19. And then on January 23, 2024, Koji sent another
11 infringement claims chart for a third product recently added to the case, without discussing the
12 accused prior art products.

13 In light of the facts discussed above and in light of the applicable legal standards, the Court
14 **FINDS** that, starting on January 3, 2024 and thereafter, Koji litigated the Second Action with
15 subjective bad faith by accusing infringement by products which Koji knew no later than January
16 18, 2024—and with the exercise of minimal diligence, should have known prior to adding them to
17 the infringement contentions in this case—were prior art products. The Court finds that Koji’s
18 accusation of prior art products was frivolous and objectively unreasonable, because no reasonable
19 litigant could reasonably expect success on the merits of such a position. Koji’s insistence on
20 pursuing settlement demands during this period of the Third Action, and Koji’s avowed reason for
21 filing the Third Action (simply to demand a higher settlement figure than was demanded during
22 the Second Action) was an improper motivation and amounts to harassment. The Court **FINDS**
23 that Koji’s actions were at least reckless, if not willfully blinding themselves to the defects in the
24 Third Action, coupled with more conduct (including making misrepresentations to this Court, as
25 discussed below). The Court therefore **FINDS** that the Second Action is an exceptional case from
26 January 3, 2024 onward.

27 Koji’s Manner of Litigation

28 REA also argues that the Second and Third Actions were exceptional because of the

1 unreasonable manner in which they were litigated. Specifically, REA argues that Koji filed these
 2 lawsuits solely to extract nuisance settlements, stressing that: (1) Koji made repeated settlement
 3 offers “far below the cost of defense” during each case (particularly at the outset of each); (2) Koji
 4 strategically avoided any testing of the merits of its patent infringement claims in all three
 5 lawsuits; and (3) Koji had actual notice of the weakness of its claims as well as of REA’s intention
 6 to seek fees under § 285.

7 Koji’s manner of litigation and the broader context of its lawsuit against REA are relevant
 8 to the Court’s inquiry under § 285. *SFA Sys., LLC v. Newegg, Inc.*, 793 F.3d 1344, 1350 (Fed.
 9 Cir. 2015) (“[A] pattern of litigation abuses characterized by the repeated filing of patent
 10 infringement actions for the sole purpose of forcing settlements, with no intention of testing the
 11 merits of one’s claims, is relevant to a district court’s exceptional case determination under
 12 § 285.”); *Elec. Comm’n Techs., LLC v. ShoppersChoice.com, LLC*, 963 F.3d 1371, 1377 (Fed.
 13 Cir. 2020) (“ECT’s demand for a low-value settlement—ranging from \$15,000 to \$30,000—and
 14 subsequent steps—such as failure to proceed in litigation past claim construction hearings—
 15 indicates the use of litigation to achieve a quick settlement with no intention of testing the strength
 16 of the patent or its allegations of infringement.”). As discussed above, in the Second and Third
 17 Actions, Koji made settlement demands as low as \$5K and only as high as \$59K. According to
 18 American Intellectual Property Law Association’s “2019 Report of the Economic Survey” (which
 19 reports on median costs of patent litigation as reported by the survey participants), the median
 20 reported fees costs for defending the lowest risk category of patent infringement case (less than \$1
 21 million at risk) filed by a non-practicing entity through claim construction was \$250,000, and the
 22 median fees and costs for defending such a case through trial and appeal was \$750,000. *See*
 23 [https://ipwatchdog.com/wp-content/uploads/2021/08/AIPLA-Report-of-the-Economic-Survey-](https://ipwatchdog.com/wp-content/uploads/2021/08/AIPLA-Report-of-the-Economic-Survey-Relevant-Excerpts.pdf)
 24 [Relevant-Excerpts.pdf](https://ipwatchdog.com/wp-content/uploads/2021/08/AIPLA-Report-of-the-Economic-Survey-Relevant-Excerpts.pdf) (last visited March 28, 2025). Reported decisions on fee awards in patent
 25 cases (such as the *Realtek* case discussed previously) similarly demonstrate that Koji’s \$59K
 26 demand was well below the cost of litigation and barely above the AIPLA survey’s reported fees
 27 and costs to defend a case through initial case management of \$40,000. *Id.* Indeed, even Koji’s
 28 lead counsel Mr. Ramey stated that Koji’s “initial offer was very low.” [Dkt. 19-1 at 152].

1 Notice of a frivolous position is relevant to the exceptional case analysis. *See Thermolife*
 2 *Int'l LLC v. GNC Corp.*, 922 F.3d 1347, 1357 (Fed. Cir. 2019) (“[O]ne consideration that can and
 3 often should be important to an exceptional-case determination is whether the party seeking fees
 4 ‘provide[d] early, focused, and supported notice of its belief that it was being subjected to
 5 exceptional litigation behavior.’”). Here, as detailed above, REA provided notice to Koji in the
 6 Second Action that the manner of litigating that case raised Rule 11 issues, sanctions issues under
 7 § 1927, as well as exceptional litigation behavior under § 285. And as soon as the Third Action
 8 was filed, Renesas gave similar notice to Koji, particularly with regard to the two-dismissal rule
 9 issue.

10 More significantly, the Court takes special note of the apparent misrepresentations by Koji
 11 in its brief opposing fees and in the declarations opposing this motion and in response to the Order
 12 to Show Cause. As detailed above, one of Koji’s arguments why the two-dismissal rule should
 13 not apply is because the claim in the Second Action somehow differed from the claim in the Third
 14 Action, primarily because the claims chart attached to the complaint in the Second Action accused
 15 a different product than in the claims chart attached to the complaint in the Third Action. [Dkt. 24
 16 at 9]. In briefing, Koji stated flatly that, for the Third Action, “Koji asked Ramey LLP to file a
 17 new lawsuit based on the newly charted product. On May 22, 2024, Koji filed the new lawsuit,
 18 accusing the entirely different Renesas system.” *Id.* at 8-9. Similarly, Koji stated in its brief that
 19 “[o]n reflection that a charted product was not included in the sales volume, Koji filed a new
 20 lawsuit accusing a new product.” *Id.* at 9; *see also id.* at 17 (“Ramey LLP determined that the
 21 additional product charted had not been accounted for in the sales volume and advised its client
 22 that the suit could be refiled as new complaint against was against a new product. On May 22,
 23 2024, Koji filed a new lawsuit against Renesas asserting the ‘703 patent against a new product that
 24 was not previously sued”). Mr. Ramey’s declaration in opposition to the instant motion makes
 25 similar averments under oath. Dkt. 24-2 at ¶¶ 12-14 And in response to the Order to Show Cause,
 26 all three lawyers of record for Koji, as well as Koji’s corporate representative Mr. Gorrichategui,
 27 made similar statements under oath. Dkt. 28-2 at ¶¶ 12-14; Dkt. 28-1 at ¶¶ 9-10; Dkt. 28-15 at ¶
 28 21; Dkt. 28-17 at ¶¶ 7-12.

1 The troubling aspect of Koji's statements and the sworn declarations of its lawyers and
 2 corporate head is that they are demonstrably misleading and misrepresent the facts. As detailed
 3 above, during the pendency of the Second Action, on January 3, 2024, Mr. Ramey identified three
 4 REA products as newly accused infringing products *in the Second Action*, and he explicitly stated
 5 that Koji was adding these products to its infringement contentions. [Dkt. 19-1 at 140]. One of
 6 the three accused products added to the Second Action by Mr. Ramey on January 3, 2024 was the
 7 REA product model number PTX130W/PTX30W. And, as discussed above, on January 23, 2024,
 8 Mr. Ramey (along with Mr. Kubiak and Ms. Kalra as cc recipients) communicated with REA's
 9 counsel, stating "[h]ere is another product we are accusing," and attaching an infringement claims
 10 chart for the PTX130W/PTX30W. *Id.* at 328-38.

11 Koji's representation that the Third Action accused a "new" or "completely different"
 12 product of infringement is false. The claims chart attached to the complaint in this Third Action is
 13 the same claims chart Koji sent to REA in connection with the Second Action. *Compare* Dkt. 1-2
 14 at 2-11, *with* Dkt. 19-1 at 329-38. Both claims charts accuse the PTX130W/PTX30W, include the
 15 same excerpts from a data sheet for the "PTX130W/PTX30W Hardware Integration," and state
 16 expressly that the PTX30W is included in the infringement accusation: "*Renesas Electronics's*
 17 *PTX130W/PTX30W (MUST BE BOUGHT TOGETHER IN ORDER TO ACHIEVE POWER*
 18 *TRANSFER) is a wireless power transfer system for wirelessly charging a powered device.*" Both
 19 claims charts also include the same explicit accusations and images of the REA PTX30W product,
 20 with the same block diagrams and images of the PTX30W board with the same annotations.

21 As discussed in detail in the Court's March 26, 2025 Order, the breadth of the infringement
 22 pleadings and requests for relief for patent infringement in both the Second Action complaint and
 23 the Third Action complaint are virtually identical. Both complaints are drafted so as to explicitly
 24 *not* limit Koji's infringement allegations in either case solely to the products identified in the
 25 claims charts attached to each complaint. From the literal face of the pleadings alone, Koji
 26 asserted literally the same cause of action in the Second and Third Actions based on alleged
 27 infringement of the '703 patent. Thus, even putting aside the fact that Mr. Ramey expressly
 28 included the PTX130W/PTX30W as an accused product during the Second Action, and then

1 attached the same claims chart accusing that product for the complaint in this Third Action, the
2 face of the two complaints completely belies Koji's argument that the product in the Third Action
3 was "new." The assertion that the Third Action is "new" or accused a "new product" is simply not
4 borne out by the express language of the two complaints when compared to each other.

5 Accordingly, on this record and in light of the applicable legal standards, the Court **FINDS**
6 that the relevant factors weigh in favor of finding that the entirety of the Third Action is an
7 exceptional case, and that the Second Action starting from January 3, 2024 and thereafter is an
8 exceptional case, such that fees under § 285 are warranted.

9 **II. Sanctions Under § 1927**

10 REA ask the Court to levy the fees against Koji's counsel as a sanction, pursuant to § 1927
11 and the Court's inherent powers. [Dkt. 18 at 24]. REA argues that such sanctions are warranted
12 under § 1927 because the attorneys' conduct—"pursuing baseless infringement claims and filing
13 the Third Action despite the two dismissal rule operating as an adjudication on the merits"—was
14 "reckless." *Id.*

15 Koji and its lawyers oppose REA's request for sanctions, arguing that: (1) REA has made
16 "no showing" that its counsel acted in bad faith or with reckless disregard of their duties to the
17 Court; (2) this was "routine litigation" with "no evidence to the contrary;" and (3) REA's request
18 for sanctions "is designed to have a chilling effect on Ramey LLP and its ability to file lawsuits."
19 [Dkt. 24 at 21].

20 As discussed above, the Court **FINDS** that the litigation of the Third Action was conducted
21 with subjective bad faith and that the filing of the Third Action's complaint was frivolous. Mr.
22 Ramey advised Mr. Gorrichategui that the Third Action could be filed based solely (as far as the
23 record demonstrates) on whether or not more damages (and a higher settlement demand) could be
24 sought for the allegedly "newly charted" product (the PTX130W/PTX30W as discussed above,
25 which was demonstrably not new). The Ramey lawyers' filing of the Third Action, without
26 performing any adequate pre-filing investigation into the two-dismissal rule issue under Rule 41,
27 multiplied the proceedings vexatiously. The filing of the Third Action was vexatious because, as
28 discussed above and in the March 26, 2025 Order, upon filing the Third Action, Mr. Ramey

1 immediately communicated with REA to demand a settlement amount more than ten times higher
2 than what Koji had demanded just a few months earlier during the Second Action. As discussed
3 above and in the March 26, 2025 Order, this conduct amounted to harassment.

4 During the Second Action, Koji's counsel accused two prior art products of infringement
5 and told REA that these products "will be included in our infringement contentions" in that
6 Second Action. [Dkt. 19-1 at 140]. This necessarily required REA and its counsel to investigate
7 the accused products, determine that they were prior art, obtain the evidence to show their prior art
8 dates, draft a response letter to Koji, and then follow up in further emails. *Id.* at 158-316. Mr.
9 Ramey's addition of these products obviously multiplied the proceedings because his actions
10 precipitated additional arguments and meet and confers between counsel about the merits of the
11 case. Much of the activity in modern federal court litigation (particularly patent litigation)
12 consists of correspondence, phone calls, and exchanges between counsel even without formal
13 discovery or Patent Local Rule disclosures, and certainly long before additional pleadings or briefs
14 are filed on the docket. And for all the reasons discussed above and in the Court's March 26, 2025
15 Order, Mr. Ramey's multiplication of the proceedings in the Second Action amounted to
16 harassment and vexatious conduct. At a minimum, Mr. Ramey's actions were reckless or
17 undertaken with willful blindness and were coupled with additional troubling behavior.

18 Again, as discussed above and in the March 26, 2025 Order, the actions of Koji's counsel
19 here were undertaken with subjective bad faith. "[S]anctions pursuant to section 1927 must be
20 supported by a finding of subjective bad faith." *Lake*, --- F.4th ----, 2025 WL 815191, at *5
21 (quoting *Blixseth*, 796 F.3d at 1007). "Bad faith is present when an attorney knowingly or
22 recklessly raises a frivolous argument or argues a meritorious claim for the purpose of harassing
23 an opponent." *Id.* (quoting *Blixseth*, 796 F.3d at 1007) (alteration omitted). "A district court may
24 find such bad faith 'when an attorney has acted recklessly if there is something more,' such as
25 frivolousness, harassment, or an improper purpose." *Indiezone*, 720 Fed. Appx. At 337.

26 A "'finding that the attorney recklessly or intentionally misled the court' or 'a finding that
27 the attorney[] recklessly raised a frivolous argument which resulted in the multiplication of the
28 proceedings' amounts to the requisite level of bad faith. In addition, 'recklessly or intentionally

1 misrepresenting facts constitutes the requisite bad faith’ to warrant sanctions, as does ‘recklessly
2 making frivolous filings.’” *Id.* (citations omitted).

3 As discussed above, Mr. Ramey, Mr. Kubiak, and Ms. Kalra all misrepresented the facts
4 regarding whether or not REA’s PTX130W/PTX30W was a “new” product in the Third Action as
5 compared to the Second Action. Mr. Ramey expressly and directly accused the
6 PTX130W/PTX30W of infringing in the Second Action. Mr. Ramey, along with Mr. Kubiak and
7 Ms. Kalra, communicated the PTX130W/PTX30W claims chart to REA during the Second
8 Action. Mr. Ramey and Ms. Kalra signed the complaint in this Third Action, which attached the
9 same claims chart accusing the PTX130W/PTX30W sent to REA during the Second Action.

10 Despite this, Mr. Ramey submitted a declaration to this Court under oath averring that this
11 Third Action was “accusing an entirely different Renesas system.” [Dkt. 28-2 at ¶ 14]. Ms. Kalra
12 likewise stated under oath that this Third Action—which she refers to as the “new lawsuit in this
13 Court”—was “accusing an entirely different Renesas system through a complaint I approved.”
14 [Dkt. 28-1 at ¶ 10]. Mr. Kubiak similarly declared under oath that the infringement accusation in
15 this Third Action was for “a new product,” even though he was on the email during the Second
16 Action when the claims chart for this same product was sent to REA. [Dkt. 28-15 at ¶ 19].

17 It is clear from the record in this case that Mr. Ramey was personally and directly involved
18 in the decision-making for the troubling actions taken here. For example, Koji’s corporate
19 representative, Mr. Gorrichategui, stated under oath that, after the voluntary dismissal of the
20 Second Action, “[o]n April 25, 2024, I told William Ramey that my team and I revisited the
21 Renesas Electronics claim chart and wanted to seek damages on a new product we charted. I
22 authorized the filing of the Third suit if we could. William Ramey informed me that we could file
23 the Third lawsuit.” [Dkt. 28-17 at ¶ 11]. First, Mr. Gorrichategui’s sworn statement that the Third
24 Action involved “a new product we charted” is again demonstrably misleading—the PTX30W
25 was directly at issue in the Second Action. This misrepresentation of facts is further support for
26 the finding of bad faith as against Koji itself for the award of fees discussed above. Second, and
27 more importantly for § 1927, Mr. Gorrichategui’s declaration demonstrates that Mr. Ramey
28 advised Koji expressly that they could file the Third Action simply to seek more damages without

1 any evidence in the record as to any pre-filing diligence (or even mention) of the two-dismissal
2 rule under Rule 41(a)(1)(B).

3 Additionally, as discussed in the March 26, 2025 Order, Mr. Ramey misrepresented the
4 timing and reasons for Ramey firm lawyers' failure to file *pro hac vice* applications in this and
5 dozens of other cases, by trying to place the blame for that decision on an alleged directive from
6 Mr. Gorrichategui in 2022. Mr. Ramey's declaration in that regard was demonstrably false in
7 light of the numerous failures to file *pro hac vice* applications for numerous other clients prior to
8 2022.

9 As discussed above, Koji's counsels' conduct during this litigation was exceptionally
10 unjustified and undertaken with bad faith (and at least recklessness or willful blindness): despite
11 knowing facts from the outset that should have put these lawyers on notice that pre-filing inquiry
12 into the two-dismissal rule was necessary before filing the Third Action, these lawyers did not
13 conduct an adequate pre-filing investigation (and according to the declarations, the only
14 investigation was whether the allegedly "new" product could be accused in the Third Action for an
15 increase in damages claimed). Through this conduct (including misrepresenting facts to this
16 Court), Koji was able to drag out this litigation across three cases in two separate venues, forcing
17 REA to incur significant additional expenses in numerous ways, including briefing on the instant
18 motion and the time and effort expended to correspond with Koji's counsel regarding the merits of
19 the cases.

20 The Ninth Circuit has made clear that the filing of a complaint cannot be the basis for
21 sanctions under § 1927. *See In re Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 435 (9th Cir. 1996)
22 ("Because [§ 1927] authorizes sanctions only for the 'multipli[cation of] proceedings,' it applies
23 only to unnecessary filings and tactics once a lawsuit has begun. We have twice expressly held
24 that § 1927 cannot be applied to an initial pleading."). Accordingly, the Court limits the sanctions
25 under § 1927 to exclude any attorneys' fees incurred by REA with regard to work undertaken to
26 respond to the complaint in the Third Action, but to include work subsequent to that time period
27 including the time spent on the instant motion and any work undertaken with regard to the Order
28 to Show Cause. The conduct of Koji's lawyers here with regard to the Second Action all took

1 place after that action had commenced, and thus, is not impacted by the limitation of *Keegan*.
 2 Therefore, pursuant to § 1927, the Court **FINDS** that the three Ramey law firm lawyers—Mr.
 3 Ramey, Mr. Kubiak, and Ms. Kalra—shall be jointly and severally liable along with Koji for the
 4 fees awarded to REA with regard to the time period of the Second Action discussed above
 5 (January 3, 2024 onward), and with regard to fees incurred by REA separate from and after the
 6 work undertaken to respond to the complaint in the Third Action, up to and including the present.

7 **III. Sanctions Under the Court's Inherent Powers**

8 REA argues that imposing the fee award against Koji's lawyers as a sanction is also
 9 appropriate under the Court's inherent authority, because "the filing and re-filing of these cases is
 10 conduct tantamount to bad faith." [Dkt. 18 at 24-26].

11 Koji and its lawyers oppose REA's request for sanctions as against the lawyers on the
 12 same grounds argued to oppose sanctions under § 1927: (1) REA has made "no showing" that its
 13 counsel acted in bad faith or with reckless disregard of their duties to the Court; (2) this was
 14 "routine litigation" with "no evidence to the contrary;" and (3) REA's request for sanctions "is
 15 designed to have a chilling effect on Ramey LLP and its ability to file lawsuits." [Dkt. 24 at 21].

16 For all the reasons discussed above with regard to § 1927, with respect to the Court's
 17 inherent power to issue sanctions, the Court **FINDS** find that Koji's counsel's actions were
 18 "tantamount to bad faith." *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1131 (9th Cir. 2002). As
 19 discussed above, the filing and prosecution of the Third Action (without any adequate pre-filing
 20 investigation into the Rule 41 issue) was subjective bad faith, frivolous, and undertaken
 21 vexatiously, for improper purpose, and to harass REA. And, as discussed above, the accusation of
 22 prior art products in the Second Action was similarly done with subjective bad faith, frivolous, and
 23 undertaken vexatiously, for improper purpose, and to harass REA. Further, the three lawyers here
 24 misrepresented facts to this Court, as detailed above.

25 "The filing of a complaint may be sanctioned pursuant to Rule 11 or a court's inherent
 26 power, but it may not be sanctioned pursuant to § 1927." *Keegan*, 78 F.3d at 435. Accordingly,
 27 the Court will not limit the sanctions under its inherent powers and will not exclude any attorneys'
 28 fees incurred by Renesas with regard to work undertaken to respond to the complaint in the Third

1 Action. Therefore, in the full exercise of the Court’s inherent authority, the Court **FINDS** that the
 2 three Ramey law firm lawyers—Mr. Ramey, Mr. Kubiak, and Ms. Kalra—shall be jointly and
 3 severally liable along with Koji for the fees awarded to REA with regard to the time period of the
 4 Second Action discussed above (January 3, 2024 onward), and with regard to fees incurred by
 5 Renesas with regard to the entirety of the Third Action, up to and including the present.

6 **IV. Amount of Fees**

7 Having determined that attorney fees are warranted under § 285, the Court must determine
 8 the reasonable amount of the award. *See Mathis v. Spears*, 857 F.2d 749, 754 (Fed. Cir. 1988)
 9 (“Section 285’s requirement that the fees awarded be ‘reasonable’ is a safeguard against excessive
 10 reimbursement.”).

11 The customary method of determining attorney fees is known as the lodestar method. The
 12 Court must first calculate a “lodestar” figure by “multiplying the number of hours reasonably
 13 expended on the litigation times a reasonable hourly rate.” *Vargas v. Howell*, 949 F.3d 1188,
 14 1194 (9th Cir. 2020) (citing *Blum v. Stenson*, 465 U.S. 886, 888 (1984)). The lodestar figure is
 15 presumptively reasonable. *City of Burlington v. Dague*, 505 U.S. 557, 562 (1992). While this
 16 lodestar amount is presumed to represent an appropriate fee, under certain circumstances, a court
 17 may then adjust the award upward or downward to take into account special factors. “Only in rare
 18 instances should the lodestar figure be adjusted on the basis of other considerations.” *United*
 19 *States v. \$28,000.00 in U.S. Currency*, 802 F.3d 1100, 1108 (9th Cir. 2015) (quoting *Harris v.*
 20 *Marhoefer*, 24 F.3d 16, 18 (9th Cir. 1994)).

21 Here, REA has submitted supporting materials for its request for fees as of June 26, 2024,
 22 totaling \$37,503.50. [Dkt. 18 at 26]. However, as discussed herein, the fee award includes only a
 23 portion of the time spent on the Second Action and, for the Third Action, potentially extends
 24 beyond June 2024. The Supreme Court has cautioned for “the need in particular circumstances to
 25 advance considerations of compensation and deterrence.” *Octane*, 572 U.S. at 554 n.6 (quoting
 26 *Fogerty*, 510 U.S. at 534 n.19). Here, compensation and deterrence considerations are adequately
 27 served by requiring Koji to pay for the portions of the Second Action attributable to the accusation
 28 of prior art products. It is axiomatic that requiring a plaintiff to pay a defendant's fees for portions

1 of the case that were not exceptional is beyond the purposes of § 285, would be punitive instead of
 2 compensatory, and could have some impact in unintentionally deterring legitimate claims.

3 Further, as discussed above, the calculation of fees to be awarded jointly and severally as
 4 against both Koji and the three lawyers under § 1927 differs from the fees to be awarded jointly
 5 and severally under the Court's inherent authority. Accordingly, updated and edited submissions
 6 from REA are required for the Court to be able to meaningfully determine (a) the total amount of
 7 fees to be awarded under § 285 as against Koji and awarded jointly and severally as against both
 8 Koji and the three Ramey lawyers under the Court's inherent powers, and (b) the subset of fees to
 9 be awarded jointly and severally as against Koji and the three Ramey lawyers under § 1927.

10 A final word on sanction: again, as discussed in the March 26, 2025 Order, the conduct
 11 here is truly extraordinary. Contrary to Koji's arguments that this litigation was "routine," the
 12 facts detailed here demonstrate a pattern and practice of egregious behavior by the lawyers
 13 involved. In particular, the manner of litigation here, including the misrepresentations by counsel,
 14 is unprecedented in the decades of the undersigned's experience in patent law and litigation both
 15 on and off the bench. The robust, constitutionally derived patent system depends on attorneys
 16 adhering at a minimum to the rules of law and legal guidelines for the normative prosecution of
 17 meritorious claims and pursuit of appropriate defenses. This Order is specific to the conduct
 18 detailed herein, which is decidedly not a mine-run case.

19 CONCLUSION

20 Accordingly, **IT IS ORDERED THAT:**

- 21 1. The motion for fees and sanctions [Dkt. 18] is **GRANTED**.
- 22 2. REA **SHALL** submit a complete justification for the fees it seeks, by no later than **April**
 23 **14, 2025**, including justification for the rates charged and the time spent, organized to
 24 facilitate the Court's review and adjustment of the requested fees. REA's submission shall
 25 be organized in a way which readily enables the Court to determine (a) the total amount of
 26 fees to be awarded under § 285 as against Koji and to be awarded jointly and severally as
 27 against both Koji and the three Ramey lawyers under the Court's inherent authority, and
 28 (b) the subset of fees to be awarded jointly and severally as against Koji and the three

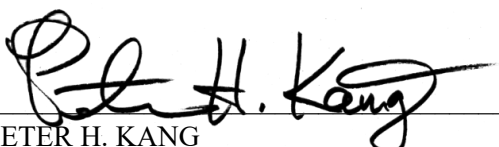
- 1 Ramey lawyers under § 1927.
- 2 3. Koji **SHALL** file its objections, if any, to REA's submission, by no later than **April 28,**
- 3 **2025.** REA may file a response to Koji's objections, if any, by no later than **May 5, 2025.**
- 4 4. Attorneys William P. Ramey, III, Jeffrey E. Kubiak, and Susan S.Q. Kalra are each
- 5 **SANCTIONED** for their conduct detailed herein under both § 1927 and the Court's
- 6 inherent authority.
- 7 5. The Court finds that monetary sanctions alone are not sufficient to deter the conduct at
- 8 issue here and finds that additional monetary sanctions would not be appropriate
- 9 compensation and would not serve the goal of deterrence. Accordingly, in the full exercise
- 10 of the Court's inherent authority, the Court further **ORDERS** Mr. Ramey, Mr. Kubiak, and
- 11 Ms. Kalra to each complete at least two hours of in-person, California bar-approved CLE
- 12 classes on Federal Court Litigation (one hour of which shall include a Legal Ethics
- 13 component or credit), and at least an additional two hours of in-person, California bar-
- 14 approved CLE on Patent Litigation (one hour of which shall include a Legal Ethics
- 15 component or credit), by no later than **March 31, 2026.** Mr. Ramey, Mr. Kubiak, and Ms.
- 16 Kalra **SHALL** each file with the Court a certification, under oath, that each has completed
- 17 such CLE by the deadline (attaching any certificate of completion from the CLE
- 18 provider(s)), where such certification shall be filed within **ten (10) business days** of the
- 19 completion of each such CLE course.
- 20 6. In the exercise of the Court's inherent authority, by no later than **May 1, 2025,** Mr. Ramey,
- 21 Mr. Kubiak, and Ms. Kalra **SHALL** each self-report the sanctions imposed on them herein
- 22 and provide a copy of this Order to the relevant disciplinary committees or offices of the
- 23 State Bar of California, the State Bar of Texas, the bar of the United States District Court
- 24 for the District of Colorado, the United States Patent and Trademark Office, and any other
- 25 state or federal bars of which they are members. Within **ten (10) business days** of
- 26 completing the self-reporting requirements, these attorneys **SHALL** file with this Court a
- 27 certification under oath certifying they have self-reported as required.
- 28 7. In the exercise of the Court's inherent authority, by no later than **May 1, 2025** each of

these attorneys **SHALL** self-report the sanctions imposed on them herein and provide a copy of this Order to the Northern District of California's Standing Committee of Professional Conduct, to the judges presiding over every other case currently pending in the Northern District of California in which any of these attorneys' names appears on any filings or pleadings (including all cases in which their names appear as "*pro hac vice* anticipated" or similar language), and as an attachment to any motion for *pro hac vice* admission filed by or on behalf of any of these lawyers in any action filed in this Court **during the next five years**. Within **ten (10) business days** of completing these self-reporting requirements, these attorneys **SHALL** file with this Court a certification under oath certifying they have self-reported as required.

8. As noted, the record indicates that the conduct at issue here resulted from practices or policies of the Ramey law firm with regard to failure to conduct reasonable pre-filing inquiry before filing a third complaint after two prior voluntary dismissals of the same cause of action. Therefore, the Court further **ORDERS** Mr. Ramey, Mr. Kubiak, and Ms. Kalra to provide all attorneys of the Ramey law firm copies of this Order as well as copies of all educational materials received in connected with the CLE courses ordered above. The required distribution of this Order shall be completed by no later than **April 7, 2025**. The required distribution of CLE educational materials shall be completed within **ten (10) business days** of the completion of each of the CLE courses ordered herein. The certifications ordered above **SHALL** include certifications by Mr. Ramey and Mr. Kubiak of the distribution of this Order and the CLE educational materials to all Ramey firm lawyers. The Court **SHALL** retain jurisdiction over these attorneys, pending completion of the payments, CLEs, and certifications required by this Order, and to ensure proper compliance with this Order and the Court's directives.

IT IS SO ORDERED.

Dated: March 31, 2025


PETER H. KANG
United States Magistrate Judge

2025-1639

**United States Court of Appeals
For the Federal Circuit**

KOJI IP, LLC,
Plaintiff-Appellant

WILLIAM PETERSON RAMEY, III, JEFFREY E. KUBIAK, SUSAN KALRA,
Sanctioned Parties-Appellants

v.

RENESAS ELECTRONICS AMERICA, INC.,
Defendant-Appellee

Appeal from the United States District Court for the Northern District of
California in Case No. 3:24-cv-03089
Magistrate Judge Peter H. Kang

**EMERGENCY MOTION TO STAY ENFORCEMENT OF PENAL
SANCTIONS PENDING APPEAL**

Attorneys for Appellants:

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CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4(a) and Federal Rule of Appellate Procedure 26.1, counsel for Appellants Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) certify the following:

1. The full name of every party represented by the undersigned is Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”).

2. The real parties in interest are Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”).

3. Koji IP, LLC has no parent company and there is no publicly held corporation that owns 10% or more of the stock of the corporation. William P. Ramey, III (“Mr. Ramey”) is an individual. Susan S.Q. Kalra (“Ms. Kalra”) is an individual. Jeffrey E. Kubiak (“Mr. Kubiak”) is an individual.

4. The names of all law firms and the partners or associates that appeared for Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) in the district court or are expected to appear in this Court are:

William P. Ramey, III of Ramey LLP

Jeffrey E. Kubiak of Ramey LLP (not expected to appear)

Susan S.Q. Kalra (not expected to appear)

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. See Fed. Cir. R. 47. 4(a)(5) and 47.5(b).

None.

6. Organizational victims and bankruptcy cases.

None.

Date: April 12, 2025

/s/ William P. Ramey, III
William P. Ramey, III

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Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) respectfully move this Court for an Order Staying Execution of Penal Sanctions¹ issued by Magistrate Judge Peter H. Kang. The Penal Sanctions are severe, unwarranted, and likely, career ending.² The Sanctioned Parties are asking for very limited relief from this Court, in equity, to stay execution of the Penal Sanctions pending the results from this appeal.

To the extent this Court requires briefing from Appellee before ruling, given that the Penal Sanctions require severe self-reporting and monetary sanctions on April 26, 2025, the Sanctioned Parties request expedited briefing from Appellee of no more than one week.

As required by FRAP 8, on April 8, 2025, the Sanctioned Parties filed an Emergency Motion to Set Bond and Stay Enforcement with the District Court, requesting expedited briefing by April 11, 2025 (“District Court Motion to Stay Penal Sanctions”).³ On April 9, 2025, Magistrate Judge Kang issued an In-Chambers Text Order setting a hearing on the District Court Motion to Stay Penal Sanctions

¹ ADD0039-ADD0082 at 38:24-43:2 (items 1-11); ADD0003-ADD0038 at 35:4-36:24 (items 4-8).

² The Penal Sanctions are sanctions payable to the Northern District of California and self-reporting of the Penal Sanctions by the Sanctioned Parties to courts and bar organizations.

³ ADD1111-ADD1128.

for May 6, 2025, (“In-Chambers Order”),⁴ which is after the Penal Sanctions require performance, thereby effectively denying the requested relief without a hearing. The Magistrate Judge provided *no reason* for denying the relief and requested briefing from Appellee on whether expedited briefing is necessary or appropriate.⁵

I. INTRODUCTION AND RELEVANT FACTS

Plaintiff Koji IP, LLC (“Koji”) sued Defendant Renesas Electronics America, Inc., (“Renesas”) alleging infringement of U.S. Pat. No. 10,790,703 (“the ‘703 Patent”), entitled “Smart Wireless Power Transfer Between Devices” (“Patent-in-Suit”) in the District of Colorado on June 30, 2023.⁶ On July 20, 2023, Jason Crotty asked that the suit be dismissed because there was low sales volume and because venue was improperly based on a distributor.⁷ Koji dismissed its lawsuit on September 6, 2023, without burdening the court or Renesas with a venue fight.⁸

On November 8, 2023, Koji refiled the same infringement allegations in the Northern District of California.⁹ Renesas maintained that the sales volume of the accused product was very low.¹⁰ Koji and its counsel looked for additional products

⁴ ADD0001-ADD0002.

⁵ See ADD0001-ADD0002.

⁶ ADD0818-ADD0828 at ¶4.

⁷ ADD0834-ADD0836 (July 18, 2023 e-mail from Crotty to Kubiak); ADD0818-ADD0828 at ¶6.

⁸ ADD0818-ADD0828 at ¶10.

⁹ ADD0837-ADD0920 at 840.

¹⁰ ADD0818-ADD0828 at ¶12.

from Defendant.¹¹ However, to not burden Renesas, on January 30, 2024, Koji agreed to dismiss without prejudice its lawsuit, to which Renesas agreed.¹² Defendant had not filed any motions in the case or otherwise appeared.¹³ Shortly thereafter, Mr. Ramey and his client's representative discussed whether the sales of a new product, not previously accused, had been included in the prior numbers and came to the conclusion it was not. Accordingly, Koji asked Ramey LLP to file a new lawsuit based on the new, different product.¹⁴ On May 22, 2024, Koji filed the new lawsuit, accusing the new and different Renesas product.¹⁵ Renesas's lawyer responded by letter on May 31, 2024, that Koji's lawsuit was foreclosed as it had been dismissed twice.¹⁶ The letter asked that the lawsuit be promptly dismissed. After further discussions with Renesas's counsel, the lawsuit was dismissed with prejudice on June 12, 2024.¹⁷ Renesas had not entered an appearance or filed any documents in the case. On June 26, 2024, Renesas filed its Motion for Attorneys' Fees.¹⁸ Magistrate Judge Kang set a hearing on August 22, 2024, on Renesas's

¹¹ ADD0818-ADD0828 at ¶¶11, 14; ADD0988-ADD0990 at ¶¶9-11, 14.

¹² ADD0921-ADD0924, January 30, 2024 e-mail chain.

¹³ ADD0818-ADD0828 at ¶13.

¹⁴ ADD0818-ADD0828 at ¶14; ADD0988-ADD0990 at ¶11.

¹⁵ ADD0925-ADD0935.

¹⁶ ADD0936-ADD0973, Letter to Ramey from Crotty at 1; ADD0818-ADD0828 at ¶15.

¹⁷ ADD0086-ADD0087.

¹⁸ ADD0115-ADD0734.

Motion for Attorneys' Fees.¹⁹ On August 29, 2024, Magistrate Judge Kang issued an Order to Show Cause to Mr. Ramey, Mr. Kubiak and Ms. Kalra ("OSC").²⁰ On September 12, 2024, Mr. Ramey, Mr. Kubiak and Ms. Kalra responded to the OSC.²¹ On September 19, 2024, Magistrate Judge Kang held a hearing on the OSC.²² On March 26, 2025, the Magistrate Judge Kang issued the Order Regarding OSC and Imposing Sanctions on Ramey Firm Lawyers ("Magistrate's Order").²³ On March 31, 2025, Magistrate Judge Kang issued the Order Granting Motion for Attorneys' Fees and Sanctions ("Magistrate's Second Order").²⁴ On April 7th and 8th, 2025, the Sanctioned Parties objected to the Magistrate's Order²⁵ and the Magistrate's Second Order.²⁶ On April 8, 2025, the Sanctioned Parties filed a Notice of Appeal to this Court.²⁷

II. APPLICABLE LEGAL STANDARDS

Rule 8 of the Federal Rules of Appellate Procedure governs the stay of proceedings to enforce a judgment.²⁸

¹⁹ ADD0746-ADD0763.

²⁰ ADD0764-ADD0779.

²¹ ADD0780-ADD0808.

²² ADD0991-ADD0992.

²³ ADD0039-ADD0082.

²⁴ ADD0003-ADD0038.

²⁵ ADD0996-ADD1022.

²⁶ ADD1165-ADD1189.

²⁷ ADD1162-ADD1164.

²⁸ Fed. R. App. P. 8.

The factors regulating the issuance of a stay pending appeal are: (1) whether the stay applicant has made a strong showing that they are likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.”²⁹ The first two factors are the “most critical.”³⁰

For the first factor, the Ninth Circuit Court of Appeals has characterized a “strong showing” to include “reasonable probability,” “fair prospect,” “substantial case on the merits,” and “serious legal questions ... raised.”³¹ The movant must show that “at a minimum ... that there is a substantial case for relief on the merits.”³² In regards to the second factor, the movant must demonstrate that there is a probability that he or she will suffer an irreparable injury if the stay is not granted.³³ “The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.”³⁴

“To protect against abuse and to ensure parties receive due process, individuals subject to sanction are afforded procedural protections, the nature of

²⁹ *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *see also Nken v. Holder*, 556 U.S. 418, 433 (2009).

³⁰ *Nken*, 556 U.S. at 434.

³¹ *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011).

³² *Lair*, 697 F.3d at 1204; *Leiva-Perez*, 640 F.3d at 967–68.

³³ *Lair*, 697 F.3d at 1215; *Leiva-Perez*, 640 F.3d at 969.

³⁴ *Nken*, 556 U.S. at 433–34 (2009); *Lair*, 697 F.3d at 1203.

which varies depending upon the violation, and the type and magnitude of the sanction.”³⁵ “The more punitive the nature of the sanction, the greater the protection to which an individual is entitled.”³⁶ The Supreme Court has explained that when strictly compensatory or remedial sanctions are issued, civil procedures, rather than criminal-type procedures, may be applied.³⁷ Compensatory sanctions may go no further than to redress the wronged party “for losses sustained” and may not impose any additional consequence as punishment for the sanctioned party's misbehavior.³⁸ However, when a sanction is imposed under a court's inherent authority as a penalty or to punish someone, “a court would need to provide procedural guarantees applicable in criminal cases, such as a ‘beyond a reasonable doubt’ standard of proof.”³⁹

III. ARGUMENT

A stay of enforcement of the Magistrate’s Order⁴⁰ and a stay of the reporting/CLE requirements in the Magistrate’s Second Order⁴¹ (collectively, “Penal

³⁵ *F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc.*, 244 F.3d 1128, 1137 (9th Cir. 2001).

³⁶ *Id.* at 1137.

³⁷ *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 826–830, 114 S.Ct. 2552, 129 L.Ed.2d 642 (1994).

³⁸ *Id.* at 829, 114 S.Ct. 2552 (quoting *United States v. Mine Workers*, 330 U.S. 258, 304, 67 S.Ct. 677, 91 L.Ed. 884 (1947)).

³⁹ *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101, 107, 137 S. Ct. 1178, 1186, 197 L. Ed. 2d 585 (2017).

⁴⁰ ADD0039-ADD0082 at 38:24-43:2 (items 1-11).

⁴¹ ADD0003-ADD0038 at 35:4-36:24 (items 4-8).

Sanctions”) is warranted due to the irreparable harm the Sanctioned Parties will suffer if required during the pendency of this appeal to self-report and because the Sanctioned Parties’ have a very high likelihood of success in reversing some if not all of the Penal Sanctions.

The Magistrate’s Order and Magistrate’s Second Order provide criminal (punitive) sanctions and the Sanctioned Parties are to afforded due process in line with criminal type procedures. However, when as here a sanction is imposed as a penalty or to punish someone, “a court would need to provide procedural guarantees applicable in criminal cases, such as a ‘beyond a reasonable doubt’ standard of proof.”⁴² Here, the Magistrate’s Order and the Magistrate’s Second Order impose sanctions that are a punishment and therefore, the Sanctioned Parties “must be afforded the full protection of a criminal jury trial, including the right to be advised of the charges, the right to a disinterested prosecutor, the right to assistance of counsel, a presumption of innocence, proof beyond a reasonable doubt, the privilege against self-incrimination, the right to cross-examine witnesses, the opportunity to present a defense and call witnesses, and the right to a jury trial if the fine or sentence imposed will be serious.”⁴³ Even after the Sanctioned Parties requested a stay pending appeal, Magistrate Judge Kang doubled down and issued the Magistrate’s

⁴² See, e.g., *Goodyear Tire & Rubber Co.*, 581 U.S. at 107, 137 S. Ct. at 1186, 197 L. Ed. 2d 585.

⁴³ *Am. Unites for Kids v. Rousseau*, 985 F.3d 1075, 1088–89 (9th Cir. 2021).

In-Chambers Order which set a hearing on the Sanctioned Parties' District Court Motion to Stay Penal Sanctions⁴⁴ for May 6, 2025,⁴⁵ which is after the Penal Sanctions require performance, thereby effectively denying the requested relief without a hearing. Magistrate Judge Kang has fallen well-short of providing the procedural fairness required by the Supreme Court.⁴⁶ The Sanctioned Parties plea in equity for a stay of the Penal Sanctions, for procedural fairness.

A. The Sanctioned Parties are Likely to Prevail on Appeal⁴⁷

1. Monetary Sanctions Under Rule 11 Are Not Allowed Because the OSC Issued After the Case Was Dismissed

The Sanctioned Parties are likely to prevail in their appeal of the monetary sanctions issued by the Magistrate's Order under Rule 11 because a monetary sanction is specifically excluded by Rule 11 under these facts:

(c) Sanctions.

...

(5) *Limitations on Monetary Sanctions.* The court *must not impose a monetary sanction*:

(A) ...; or

(B) on its own, unless it issued the show-cause order under Rule 11(c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.⁴⁸

⁴⁴ADD1111-ADD1128.

⁴⁵ ADD0001-ADD0002.

⁴⁶ *Goodyear Tire & Rubber Co.*, 581 U.S. at 107, 137 S. Ct. at 1186, 197 L. Ed. 2d 585.

⁴⁷ Declaration of William P. Ramey, III ("Ramey Decl.") at ¶7.

⁴⁸ Fed. R. Civ. P. 11 (emphasis added).

Koji dismissed the lawsuit on June 12, 2024.⁴⁹ The Order to Show Cause was not issued until August 27, 2024.⁵⁰ Therefore, the literal language of Rule 11 does not allow the Court to impose a monetary sanction.⁵¹ Likewise, a court cannot resort to an inherent power sanction to do what it is prohibited from doing under the rules.⁵² Therefore, the Sanctioned Parties are likely to prevail on their appeal of the Rule 11 monetary sanction issued by the Magistrate's Order.⁵³

2. There Can be No Rule 11 Violation When the Filing is Allowed Under the Law

The Sanctioned Parties are likely to prevail reversing the Magistrate's Order's finding a violation of Rule 11,⁵⁴ as the Magistrate's Order misapplied the law around a Rule 41(a) dismissal. The case of *Com. Space Mgmt. Co. v. Boeing Co.*⁵⁵ makes clear that the determination of whether a third cause of action is allowable can only be made once the third cause of action is filed.⁵⁶ The Magistrate's Order incorrectly begins with the premise that no third cause of action was permissible to file. The Colorado action ("*Koji I*") was dismissed for venue

⁴⁹ ADD0086-ADD0087.

⁵⁰ ADD0764-ADD0779.

⁵¹ Fed. R. Civ. P. 11(c)(5)(B).

⁵² See, e.g., *Chambers v. NASCO, Inc.*, 501 U.S. 32, 47, 111 S. Ct. 2123, 2134, 115 L. Ed. 2d 27 (1991).

⁵³ ADD0076-ADD0080.

⁵⁴ ADD0039-ADD0082 at ADD0052-ADD0061.

⁵⁵ 193 F.3d 1074, 1080 (9th Cir. 1999).

⁵⁶ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

and was then re-filed in a different venue, the Northern District of California, as *Koji IP, LLC v. Renesas Electronics America, Inc.*, No. 3:23-cv-05752-LJC (N.D. Cal. Nov. 8, 2023) (“*Koji I*”), However, based on low sales volumes the case was dismissed.⁵⁷ After further diligence on a new product, not previously accused was accused of infringement in *Koji IP, LLC v. Renesas Electronics America, Inc.*, No. 5:24-cv-03089 (N.D. Cal. May 22, 2024) (“*Koji III*”).⁵⁸

Under these facts, the two-dismissal rule does not apply or an exception would apply.⁵⁹ In *Koji I*, at the time of dismissal, Defendant had filed a motion to dismiss based on venue that attached evidence it did not have a regular and established place of business in Colorado,⁶⁰ even though Defendant advertised it had an office in Denver.

The same patent infringement claims were refiled in NDCA as *Koji II*. Due to low sales, that case was dismissed.⁶¹ After further review, *Koji III* was filed on a different Renesas product.⁶² *Koji III* is not the same case as *Koji II*, as *Koji II* accused a different product, thus a different claim. Also, *Koji II* differed from *Koji I*, as *Koji II* was in a different venue from *Koji I*. The Ninth Circuit uses a

⁵⁷ ADD0822; ADD0922-ADD0923.

⁵⁸ ADD0746-ADD0763 at ¶¶14-15.

⁵⁹ See, e.g., *Lake at Las Vegas Invs. Grp., Inc. v. Pac. Malibu Dev. Corp.*, 933 F.2d 724, 727 (9th Cir. 1991).

⁶⁰ ADD0746-ADD0763; ADD0993-ADD0995 at ¶5.

⁶¹ ADD0746-ADD0763 at ¶¶12-15; ADD0993-ADD0995 at ¶¶6-7.

⁶² ADD0746-ADD0763 at ¶¶5-15.

“transactional approach for purposes of the two-dismissal rule and holds that a subsequent claim is the same as a previously dismissed claim if it arises from the same set of facts as the first action and the claim could have been or was raised in the preceding action.”⁶³ The accused product in the present case, *Koji III*, is different than the accused product in the prior California case, *Koji II*, i.e., the facts and thus the claim differ. Therefore, the two-dismissal rule would not apply. It was error for the Magistrate’s Order to find bad faith based on the filing of *Koji III*.⁶⁴ There can be no abuse of the judicial system if the filing is allowed, as it is here.⁶⁵ Further, the Magistrate’s Order erred by analyzing the subjective intent of the Sanctioned Parties as to whether they had case law to support what they did “[b]ecause the frivolousness prong of Rule 11 is measured by *objective* reasonableness, [citation omitted], whether [a party] actually relied on” the cases which show its claims aren’t frivolous is irrelevant. [citation omitted] The same rule must apply to the factual basis for a claim.⁶⁶ The commentary on Rule 11 emphasizes that the Rule “is not intended to chill an attorney’s enthusiasm or creativity in pursuing factual or legal theories.”⁶⁷ It is likely the Sanctioned Parties

⁶³ *Rose Ct., LLC v. Select Portfolio Servicing, Inc.*, 119 F.4th 679, 686 (9th Cir. 2024).

⁶⁴ ADD0039-ADD0082 at ADD0062-ADD0065.

⁶⁵ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

⁶⁶ *In re Keegan Mgmt. Co., Sec. Litig.*, 78 F.3d 431, 434 (9th Cir. 1996)

⁶⁷ *Operating Eng’rs Pension Tr. v. A-C Co.*, 859 F.2d 1336, 1344 (9th Cir. 1988) *citing* Fed.R.Civ.P. 11, Notes of Advisory Committee on Rules.

will reverse the Rule 11 sanction.

3. Inherent Power Sanctions are Improper as there is No Bad Faith

To impose sanctions under its inherent authority or potentially award attorneys' fees under Rule 41(d), a court must "make an explicit finding that counsel's conduct constituted or was tantamount to bad faith."⁶⁸ The Magistrate's Order erred when it found bad faith of the Sanctioned Parties filing the third action, *Koji III*,⁶⁹ as caselaw specifically allows the filing⁷⁰ and without sanction provided a persuasive explanation is provided as to why it was filed.⁷¹ Further, the Ninth Circuit recognizes exceptions to the two dismissal rule that should have precluded the imposition of sanctions as the Sanctioned Parties had a reasonable argument as to why they could file the third lawsuit.⁷² An entirely new product was accused of infringement in *Koji III* and therefore the facts and claims are not the same.⁷³ It was error for the Magistrate's Order to find that bad faith was shown through not investigating Rule 41 and otherwise filing *Koji III* as there was a good faith basis.⁷⁴ Therefore, it is likely the inherent power sanctions will be reversed.

4. The Sanctioned Parties Were Not Practicing Law in California

⁶⁸ *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1131 (9th Cir. 2002).

⁶⁹ ADD0039-ADD0082 at ADD0062.

⁷⁰ *See, e.g., Rose Ct., LLC*, 119 F.4th at 686.

⁷¹ *Milkcrate Athletics, Inc.*, 619 F. Supp. 3d at 1025.

⁷² *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d at 1080.

⁷³ ADD0746-ADD0763 at ¶¶14-15.

⁷⁴ ADD1072-ADD1074 at 45:6-17; ADD0818-ADD0828 at ¶¶17, 27-28.

a. Mr. Ramey and Mr. Kubiak Were Advising on the Federal Issues of Patent Infringement Law

The Sanctioned Parties are likely to prevail that they were not practicing law in California and therefore Ms. Kalra was not aiding and abetting and thus there is no violation of the Court's authority under the Civil Local Rules. Ms. Kalra was the lead attorney in every case filed in California for or with Ramey LLP.⁷⁵ Therefore, a licensed California attorney was always lead counsel on every case and responsible for all filings. As a preliminary matter, the Sanctioned Parties note that each firmly believed that what they were doing was well within the letter of the law and local rules, but more importantly, the Sanctioned Parties instantly modified their behavior and discontinued the practices that Magistrate Judge Kang said was improper.⁷⁶ As such, the conduct is not likely to be repeated and the conduct was not thought to violate any ethical rule or rule of practice at the time it occurred.⁷⁷ As the actions were not intentional violations, if a sanction is determined appropriate, a written reprimand is more appropriate rather than the Magistrate's Order issuing sanctions that quite likely will be career altering. In fact, Ms. Kalra has resigned from her new law firm over the Magistrate's Order⁷⁸ and Mr. Ramey

⁷⁵ ADD1028-ADD1097 at 10:13-22; 31:16-34:9.

⁷⁶ ADD0809-ADD0817 at ¶¶14, 20-23; ADD0818-ADD0828 at ¶¶19-23; and, ADD0974-ADD0987 at ¶¶10-14.

⁷⁷ ADD0809-ADD0817 at ¶¶ 20-23; ADD0818-ADD0828 at ¶¶20-23; and, ADD0974-ADD0987 at ¶¶11-14.

⁷⁸ ADD1100-ADD1110, Declaration of Susan S.Q. Kalra at ¶3.

was censored by Gene Quinn of IP Watchdog through the removal of previously Mr. Ramey's published articles and the scrubbing of his profile from the website because of the Magistrate's Order.⁷⁹ Therefore, irreparable damage has already been done by the Magistrate's Order.

Ninth Circuit caselaw provides that the State Supreme Court in California considers the conduct of an attorney to be the practice of law in California when it entails sufficient contact with a *California* client to render the nature of the legal service a clear legal representation. In making the determination, the nature of the unlicensed lawyer's activities in the state must be examined.⁸⁰ Mere fortuitous or attenuated contacts will not sustain a finding that the unlicensed lawyer practiced law in California. The primary inquiry turns on whether the unlicensed lawyer engaged in sufficient activities or created a continuing relationship with a *California* client that included legal duties and obligations.⁸¹

The Ninth Circuit case law provides that the legal services of a lawyer wholly performed in a state other than California are not the unauthorized practice of law when the legal services have more to do with an issue of federal law than state law, ERIUSA law in the cited case.⁸² The Court in *Winterrowd* further found

⁷⁹ ADD1023-ADD1027 at ¶3.

⁸⁰ *Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 821–23 (9th Cir. 2009).

⁸¹ *Winterrowd*, 556 F.3d at 821–23.

⁸² *Winterrowd*, 556 F.3d at 821–22.

that the out of state lawyer was not practicing law in California because the arrangement the out of state lawyer had with the in state lawyer was more like a partnership, which is exactly the situation of the present case, Ms. Kalra was the California lawyer on the case and responsible as lead attorney.⁸³ For all practical purposes, the arrangement between Mr. Ramey, Mr. Kubiak and Ms. Kalra is analogous to a partnership for the prosecution of the patent infringement claim against the Defendant which is similar to the type of partnership found in *Winterrowd*.⁸⁴ The Ninth Circuit found it very relevant if one of the lawyers performing the work is licensed in California.⁸⁵

The Ninth Circuit hold that state law is not determinative of whether a lawyer practicing in federal court is authorized to practice and recognized that an out of state lawyer could always seek admission by *pro hac vice* admission.⁸⁶ The Magistrate's Order did find that each of Mr. Ramey and Mr. Kubiak were regularly practicing law in California but without any specificity as to what acts constituted the practice of law in California and thus in error.⁸⁷ That Mr. Ramey and Mr. Kubiak appeared on pleadings with the modifier "*pro hac vice anticipated*" or the like is precisely the type of attenuated contact that the California Supreme Court

⁸³ *Winterrowd*, 556 F.3d at 821–22.

⁸⁴ *See, e.g., Id.* at 821–23.

⁸⁵ *See, e.g., Id.* at 822.

⁸⁶ *See, e.g., Id.* at 823.

⁸⁷ ADD0039-ADD0082 at 32-33.

said would not support that either was practicing law in California.⁸⁸ In fact, the modifier makes it very clear that both are not licensed.

The Sanctioned Parties formed a partnership where Ms. Kalra handled the state law matters and Mr. Ramey and Mr. Kubiak delivered highly specialized advice on federal patent litigation.⁸⁹ Further, much like in *Winterrowd*, if required, there is no reason Mr. Ramey or Mr Kubiak would not be admitted *pro hac vice*. Both are members in good standing with the Texas State Bar⁹⁰ and each have over 25 years practice.⁹¹ As in *Spanos*, there has been “no suggestion of any unlawful conduct on [their] part,” prior to the Magistrate’s Order.⁹² While the Magistrate’s Order does make a finding that Mr Ramey and Mr. Kubiak are regularly engaged in the practice of law in California,⁹³ which might disqualify each from *pro hac vice* admission under Civil L.R. 11-3(c), the record evidence is believed to show only attenuated contact on the highly specialized area of patent litigation. The evidence of record is that a California lawyer was lead counsel for all cases, except for the three transferred cases and in the process of being dismissed at the time of transfer.⁹⁴ Moreover, to the extent the Magistrate’s Order

⁸⁸ See, e.g., *Winterrowd*, 556 F.3d at 821–23.

⁸⁹ *Id.*

⁹⁰ ADD1023-ADD1027 at ¶8.

⁹¹ ADD1023-ADD1027 at ¶9.

⁹² *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 168 (2d Cir. 1966).

⁹³ ADD0039-ADD0082 at ADD0066.

⁹⁴ ADD1023-ADD1027 at ¶¶5-7.

seeks to limit Koji from using any of the Ramey Firm lawyers, the privileges and immunities clause of the U.S. Constitution which prohibits a state from denying a citizen with a federal claim or defense from engaging an out-of-state lawyer to collaborate with an in-state lawyer and give legal advice concerning it within the state, would likely prevent any such result.⁹⁵ For the reasons provided herein, the Sanctioned Parties are likely to prevail and reverse Magistrate's Order's finding that Mr. Ramey and Mr. Kubiak were engaged in the unauthorized practice of law and that Ms. Kalra aided and abetted that practice.⁹⁶

While not believed necessary for this Motion, the Sanctioned Parties' Objections to the Magistrate's Order⁹⁷ fully discuss the California cases referenced by the Magistrate's Order and are provided in the Addendum accompanying this Motion.⁹⁸

b. The Use of "Pro Hac Vice Anticipated" is not Uncommon

Magistrate Judge Kang's finding of the unauthorized practice of law will have chilling effect on a patent plaintiff's ability to obtain representation and will limit access to the courts for patent owners.⁹⁹ The use of "*pro hac vice anticipated*" is not

⁹⁵ *Spanos v. Skouras Theatres Corp.*, 364 F.2d 161, 170 (2d Cir. 1966).

⁹⁶ ADD0039-ADD0082 at ADD0061.

⁹⁷ ADD0039-ADD0082.

⁹⁸ ADD1007-ADD1019 at 8:8 - 20:9 (Objections 5-9).

⁹⁹ ADD0993-ADD0995 at ¶¶4-13.

uncommon. A brief search located several examples.¹⁰⁰ Likewise, Benjamin Charkow, counsel for Renesas, worked on this case and the prior California case for months¹⁰¹ before finally appearing, after the case was closed, when Renesas filed its motion for fees on June 26, 2024.¹⁰²

5. If a Sanction is Deemed Warranted, a Less Severe Sanction is Appropriate

The Sanctioned Parties have objected to the sanctions issued as not being proper.¹⁰³ Sanctions imposed should be limited to what is “sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.”¹⁰⁴ A more appropriate sanction would be admonishment of the conduct as it has already stopped and was not done to circumvent any rule. The evidence of record is that the procedure used by the Ramey Firm was believed to be in compliance but that immediately after the August 22, 2024, hearing, the process was changed.¹⁰⁵ As such, there is little chance the conduct repeats. It is error for the Magistrate’s Order to require the Sanctioned Parties self-report the sanctions imposed on them

¹⁰⁰ ADD1023-ADD1027 at ¶¶4-6.

¹⁰¹ ADD0265-ADD0269 at 151-155/620.

¹⁰² ADD0088-ADD0114.

¹⁰³ ADD0996-ADD1022 at ADD1020-ADD1021 and *generally*; ADD1165-ADD1189 at ADD1187-ADD1188 and *generally*.

¹⁰⁴ Fed.R.Civ.P. 11(b)(2)(A).

¹⁰⁵ ADD0809-ADD0817 at ¶14; ADD0818-ADD0828 at ¶19; and, ADD0974-ADD0987 at ¶10; ADD1033-ADD1034.

and engage in CLE study.¹⁰⁶ It is further error for the Magistrate's Order to require the Sanctioned Parties further self-report.¹⁰⁷ It is further error for the Magistrate's Order to require Mr. Ramey and Mr. Kubiak to each complete CLE classes¹⁰⁸ and for the Magistrate's Second Order to require further CLE.¹⁰⁹ These sanctions are severe and unwarranted, potentially career ending, and unreasonable as to the length of 5 years. It is further error for the Magistrate's Order¹¹⁰ and the Magistrate's Second Order¹¹¹ to require the Sanctioned Parties each to self-report the sanctions imposed while the appeal is pending. The Sanctioned Parties have already discontinued the practice and it is not likely to be repeated.¹¹²

B. The Sanctioned Parties will be Irreparably Harmed

The Penal Sanctions are severe, unwarranted, potentially career ending, and unreasonable as requiring reporting for the next 5 years.¹¹³ The Sanctioned Parties have already discontinued the practice and it is not likely to be repeated.¹¹⁴ A stay

¹⁰⁶ ADD0039-ADD0082 at ADD0076.

¹⁰⁷ ADD0039-ADD0082 at ADD0076.

¹⁰⁸ ADD0039-ADD0082 at ADD0081.

¹⁰⁹ ADD0003-ADD0038 at ADD0037.

¹¹⁰ ADD0039-ADD0082 at ADD0076.

¹¹¹ ADD0003-ADD0038 at ADD0038.

¹¹² ADD0809-ADD0817 at ¶14; ADD0818-ADD0828 at ¶19; and, ADD0974-ADD0987 at ¶10.

¹¹³ ADD0039-ADD0082 at 38:13-23 (item 4); ADD0003-ADD0038 at 35:28-36:10 (item 7).

¹¹⁴ ADD0809-ADD0817 at ¶14; ADD0818-ADD0828 at ¶19; and, ADD0974-ADD0987 at ¶10; ADD1033-ADD1034.

for any self-reporting, and other sanctions, should be afforded the Sanctioned Parties pending any appeal as once reported the sanctions cannot be undone.¹¹⁵ The harm will be immediate and severe.¹¹⁶ Once reported to bar organizations, even if successful on appeal, the Sanctioned parties will not be able to un-ring that bell. The harm is immediate and substantial.¹¹⁷

C. The Requested Stay Will Not Injure Any Party

The requested stay is not a request to stay any payment to Defendant. No party will be injured by the requested stay.¹¹⁸

D. The Public Interest Will Not Be Adversely Affected

While the public certainly has an interest in lawyers performing their duties properly, the public interest is not served by permanently damaging the Sanctioned Parties' careers with orders that are capable of modification, especially when no harm will come to Defendant.¹¹⁹ As well, the public interest is best served by opening access to the courts for more patent owners. The Penal Sanctions will have the effect of closing the courts to many more patent owners. There are already few

¹¹⁵ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *1-2 (D. Idaho Jan. 7, 2015) citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); see also *Nken*, 556 U.S. at 433.

¹¹⁶ *Gibson v. Credit Suisse AG*, No. 1:10-CV-00001-JLQ, 2015 WL 105999, at *2 (D. Idaho Jan. 7, 2015)

¹¹⁷ Ramey Decl. at ¶8.

¹¹⁸ Ramey Decl. at ¶9.

¹¹⁹ Ramey Decl. at ¶10.

firms willing to represent patent owners.¹²⁰

E. The Four Factors Weigh Heavily in Favor of Staying Execution

All factors support stay of enforcement of the Penal Sanctions; the monetary sanction issued in the Magistrate's Order¹²¹ and a stay of the reporting/CLE requirements in the Magistrate's Second Order,¹²² pending the appeal. The irreparable harm absent a stay is significant and the Sanctioned Parties have shown the likelihood of prevailing on appeal.¹²³

III. MAGISTRATE JUDGE KANG LACKS JURISDICTION

The Parties, Koji and Renesas, did not consent while the case was open. The Magistrate's Order finding that both parties consented is in error.¹²⁴ Plaintiff filed a consent on June 10, 2024, that limited its consent to Final Judgment:

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily consent to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment. I understand that appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

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However, Defendant did not consent until June 26, 2024,¹²⁶ which was after Final

¹²⁰ ADD0993-ADD0995 at ¶¶3-13.

¹²¹ ADD0039-ADD0082 at 37:22-44:7 (items 1-11).

¹²² ADD0003-ADD0038 at 35:4-36:24 (items 4-8).

¹²³ The Sanctioned Parties cannot yet appeal a portion of the Magistrate's Second Order as it is not final.

¹²⁴ ADD0039-ADD0082 at 1:21-22.

¹²⁵ ADD0083-ADD0085.

¹²⁶ ADD0736-ADD0739.

Judgment, after Plaintiff voluntarily dismissed its case on June 12, 2024.¹²⁷

[t]h[e] [filing of notice] itself closes the file. There is nothing the defendant can do to fan the ashes of that action into life and the court has no role to play. This is a matter of right running to the plaintiff and may not be extinguished or circumscribed by adversary or court.¹²⁸

Thus, both parties did not consent before Final Judgment and jurisdiction was not conferred on Magistrate Judge Kang to issue orders not reviewable by the District Court. Where both parties have not consented, a magistrate judge does not obtain jurisdiction over a matter.¹²⁹ Defendant/Appellee's consent was not effective as it was after Final Judgment, the limit of Koji's consent. Therefore, whether considered a non-dispositive order or a dispositive order, the Sanctioned Parties believe the District Court's consideration of these objections is necessary prior to consideration of the appeal on its merits. However, such requirement does not prevent this Court from issuing the requested stay of enforcement.

V. CONCLUSION

Koji IP, LLC, William P. Ramey, III, Susan S.Q. Kalra and Jeffrey E. Kubiak respectfully pray this Court enter an order staying enforcement of the Penal Sanctions; the Magistrate's Order¹³⁰ and the Reporting/CLE requirements of the

¹²⁷ ADD0086-ADD0087.

¹²⁸ *Com. Space Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999).

¹²⁹ *See, e.g., Anderson v. Woodcreek Venture Ltd.*, 351 F.3d 911, 915 (9th Cir. 2003).

¹³⁰ ADD0039-ADD0082 at 37:22-44:7 (items 1-11).

Magistrate's Second Order,¹³¹ during the pendency of this appeal.

Respectfully submitted,

Ramey LLP

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***Attorneys For Koji IP, LLC,
William P. Ramey, III, Susan S.Q.
Kalra and Jeffrey E. Kubiak***

CERTIFICATE OF COMPLIANCE

I certify that this Motion is proportionately spaced and contains 5078 words excluding parts of the document exempted by Federal Circuit Rule 27(d).

/s/ William P. Ramey, III
William P. Ramey, III

STATEMENT OF CONSENT OR OPPOSITION PER FED. CIR R. 27(A)(5)

Counsel for Appellant emailed counsel for Appellee on April 11, 2025, and

¹³¹ ADD0003-ADD0038 at 35:4-36:24 (items 4-8).

received two responsive e-mails on April 11, 2025, that indicate that Appellee is opposed to the requested relief. Appellee specifically provided that they would not be able to provide their position this same day.

/s/ William P. Ramey, III
William P. Ramey, III

-

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all counsel of record who have appeared in this case are being served on this day of April 12, 2025, with a copy of the foregoing via e-mail.

/s/ William P. Ramey, III
William P. Ramey, III

2025-1639

**United States Court of Appeals
For the Federal Circuit**

KOJI IP, LLC,
Plaintiff-Appellant

WILLIAM PETERSON RAMEY, III, JEFFREY E. KUBIAK, SUSAN KALRA,
Sanctioned Parties-Appellants

v.

RENESAS ELECTRONICS AMERICA, INC.,
Defendant-Appellee

Appeal from the United States District Court for the Northern District of
California in Case No. 3:24-cv-03089
Magistrate Judge Peter H. Kang

DECLARATION OF WILLIAM P. RAMEY, III

Attorneys for Appellants:

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/s/ William P. Ramey, III

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CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4(a) and Federal Rule of Appellate Procedure 26.1, counsel for Appellants KOJI IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) certify the following:

1. The full name of every party represented by the undersigned is Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”).

2. The real parties in interest are Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”).

3. Koji IP, LLC has no parent company and there is no publicly held corporation that owns 10% or more of the stock of the corporation. William P. Ramey, III (“Mr. Ramey”) is an individual. Susan S.Q. Kalra (“Ms. Kalra”) is an individual. Jeffrey E. Kubiak (“Mr. Kubiak”) is an individual.

4. The names of all law firms and the partners or associates that appeared for Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) in the district court or are expected to appear in this Court are:

William P. Ramey, III of Ramey LLP

Jeffrey E. Kubiak of Ramey LLP (not expected to appear)

Susan S.Q. Kalra (not expected to appear)

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. See Fed. Cir. R. 47. 4(a)(5) and 47.5(b).

None.

6. Organizational victims and bankruptcy cases.

None.

Date: April 12, 2025

/s/ William P. Ramey, III
William P. Ramey, III

I, William Ramey, declare as follows:

1. My name is William P. Ramey, III. I am over the age of 21. I have personal knowledge of the facts contained herein, which are true and correct. If called as a witness, I could competently testify to these statements.

2. I am licensed to practice law in the state of Texas and am an attorney with the law firm of Ramey LLP. I represent the Plaintiff in the above-captioned lawsuit.

3. I was censored by Gene Quinn of IP Watchdog through the removal of my previously published articles and the scrubbing of my profile from the IP Watchdog website because of the Magistrate's Order.

4. Addendum bates range ADD1134-ADD1139 is a true and correct copy of a case filing from *In Tre Dreamland Baby Co. Weighted Sleep Products Litigation*, case number 3:24-cv-02996, where appearing attorneys use "*pro hac vice anticipated*," as shown by the yellow highlight.

5. Addendum bates range ADD1140-ADD1156 is a true and correct copy of a case filing from *In re: Future Motion, Inc. Products Liability Litigation*, case number 23-md-03087, where appearing attorneys use "*pro hac vice anticipated*," as shown by the yellow highlight.

6. Addendum bates range ADD1157-ADD1161 is a true and correct copy of a case filing from *In re Betterhelp, Inc. Data Disclosure Cases*, case number 3:23-cv-01033,

where appearing attorneys use “*pro hac vice anticipated*,” as shown by the yellow highlight.

7. A stay of enforcement of the Magistrate’s Order¹ and a stay of the reporting/CLE requirements in the Magistrate’s Second Order² (collectively, “Penal Sanctions”) is appropriate because the Sanctioned Parties have a very high likelihood of success in reversing some if not all of the Penal Sanctions. Under the literal language of Rule 11, a monetary sanction is not allowed, as the case was closed prior to the issuance of the Order to Show Cause, and thus the Magistrate’s Order issuance of a monetary sanction under Rule 11 will be reversed or the Rules mean nothing.³

8. A stay of the Penal Sanctions is warranted due to the irreparable harm the Sanctioned Parties will suffer if required during the pendency of this appeal to self-report to court and bar organizations. Further, irreparable harm has already occurred with the censorship referenced in paragraph 3. There can be no greater harm than the loss of your speech. Based on the Magistrate’s Order, Gene Quinn took my speech and erased it. This alone establishes irreparable harm. Also, once reported to bar organizations, even if successful on appeal, the Sanctioned Parties will not be able to un-ring that bell. The harm is immediate and substantial.

¹ Doc. No. 42 at 38:24-43:2 (items 1-11).

² Doc. No. 43 at 35:4-36:24 (items 4-8).

³ Doc. No. 42 at 38:24-43:2 (items 5-8).

9. No harm will befall Defendant as the Penal Sanctions sought to be stayed do not require payment to Defendant.

10. The public interest is best served in having this appeal heard before sanctions are issued and further irreparably harming three lawyers and the patent plaintiff's practice as a whole.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 11, 2025.

A handwritten signature in black ink, appearing to read 'WPP', followed by a large, stylized flourish that loops around and ends with a horizontal line.

William P. Ramey, III

1 Susan Kalra (SBN 167940)
2 4140 Innovator Drive, Apt. 4201
3 Sacramento, CA 95834
4 (650) 678-4644
5 Email: sqklaw@gmail.com

6 *Attorneys for Plaintiff*
7 *Koji IP, LLC and*
8 *Submitted on behalf of pro se*
9 *William P. Ramey, III,*
10 *Susan Kalra and Jeffrey E. Kubiak*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 KOJI IP, LLC,

15 Plaintiff,

16 v.

17 RENESAS ELECTRONICS
18 AMERICA, INC.,

19 Defendant.

Case No.: 3:24-cv-03089-PHK

**PLAINTIFF'S NOTICE OF FILING
APPLICATION WITH THE
UNITED STATES SUPREME
COURT**

20
21 On April 22, 2025, William P. Ramey, III ("Mr. Ramey"), Susan S.Q. Kalra
22 ("Ms. Kalra"), Jeffrey E. Kubiak ("Mr. Kubiak") and Koji IP, LLC ("Koji")
23 (collectively, "Sanctioned Parties") are filing an application with the United States
24 Supreme Court seeking an Emergency Stay of the Penal Sanctions. The Sanctioned
25 Parties again request, from this Court, a stay of the Penal Sanctions pending appeal
26 as requested in Doc. No. 54 ("Motion for Stay of Penal Sanctions").
27
28

PLAINTIFF'S NOTICE OF FILING APPLICATION WITH THE UNITED STATES SUPREME COURT CASE
NO.: 3:24-CV-03089-PHK

1 The Penal Sanctions are set to require self-reporting and monetary payments
2 on April 26, 2025, and further self-reporting going forward. However, the Sanctioned
3 Parties' Motion for Stay of Penal Sanctions established both a likelihood of success
4 and irreparable harm. Further, a stay will not harm Renesas as the monetary sanctions
5 are paid to the Northern District of California and the self-reporting is to bar
6 organizations and the courts. The Sanctioned Parties have met their burden for a stay
7 pending appeal.
8
9

10
11
12 Dated: April 21, 2025

Respectfully submitted,

13
14 /s/ Susan S.O. Kalra
15 Susan Kalra (SBN 167940)
16 4140 Innovator Drive, Apt. 4201
17 Sacramento, CA 95834
18 (650) 678-4644
19 Email: sqklaw@gmail.com

20 *Attorneys for Plaintiff*
21 *Koji IP, LLC and*
22 *Submitted on behalf of pro se*
23 *William P. Ramey, III,*
24 *Susan Kalra and Jeffrey E. Kubiak*
25
26
27
28

2025-1639

**United States Court of Appeals
For the Federal Circuit**

KOJI IP, LLC,
Plaintiff-Appellant

WILLIAM PETERSON RAMEY, III, JEFFREY E. KUBIAK, SUSAN KALRA,
Sanctioned Parties-Appellants

v.

RENESAS ELECTRONICS AMERICA, INC.,
Defendant-Appellee

Appeal from the United States District Court for the Northern District of
California in Case No. 3:24-cv-03089
Magistrate Judge Peter H. Kang

NOTICE OF APPLICATION TO UNITED STATES SUPREME COURT

Attorneys for Appellants:

Ramey LLP

/s/ William P. Ramey, III
William P. Ramey, III
Texas Bar No. 24027643
wramey@rameyfirm.com
5020 Montrose Blvd., Suite 800
7Houston, Texas 77006
(713) 426-3923

CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4(a) and Federal Rule of Appellate Procedure 26.1, counsel for Appellants Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) (collectively, “Sanctioned Parties”) certify the following:

1. The full name of every party represented by the undersigned is Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”).

2. The real parties in interest are Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”).

3. Koji IP, LLC has no parent company and there is no publicly held corporation that owns 10% or more of the stock of the corporation. William P. Ramey, III (“Mr. Ramey”) is an individual. Susan S.Q. Kalra (“Ms. Kalra”) is an individual. Jeffrey E. Kubiak (“Mr. Kubiak”) is an individual.

4. The names of all law firms and the partners or associates that appeared for Koji IP, LLC (“Koji”), William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”) and Jeffrey E. Kubiak (“Mr. Kubiak”) in the district court or are expected to appear in this Court are:

William P. Ramey, III of Ramey LLP

Jeffrey E. Kubiak of Ramey LLP (not expected to appear)

Susan S.Q. Kalra (not expected to appear)

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. See Fed. Cir. R. 47. 4(a)(5) and 47.5(b).

None.

6. Organizational victims and bankruptcy cases.

None.

Date: April 21, 2025

/s/ William P. Ramey, III
William P. Ramey, III

On April 22, 2025, William P. Ramey, III (“Mr. Ramey”), Susan S.Q. Kalra (“Ms. Kalra”), Jeffrey E. Kubiak (“Mr. Kubiak”) and Koji IP, LLC (“Koji”) (collectively, “Sanctioned Parties”) are filing an application with the United States Supreme Court seeking an Emergency Stay of the Penal Sanctions. The Sanctioned Parties again request, from this Court, a stay of the Penal Sanctions pending appeal as requested in Doc. No. 5 (“Emergency Motion to Stay Enforcement of Penal Sanctions Pending Appeal”).

The Penal Sanctions are set to require self-reporting and monetary payments on April 26, 2025, and further self-reporting going forward. However, the Sanctioned Parties’ Motion for Stay of Penal Sanctions established both a likelihood of success and irreparable harm. Further, a stay will not harm Renesas as the monetary sanctions are paid to the Northern District of California and the self-reporting is to bar organizations and the courts. The Sanctioned Parties have met their burden for a stay pending appeal.

/s/ William P. Ramey, III
William P. Ramey, III

CERTIFICATE OF COMPLIANCE

I certify that this Notice is proportionately spaced and contains 158 words excluding parts of the document exempted by Federal Circuit Rule 27(d).

/s/ William P. Ramey, III
William P. Ramey, III

STATEMENT OF CONSENT OR OPPOSITION PER FED. CIR R. 27(A)(5)

Counsel for Appellant emailed counsel for Appellee on April 11, 2025, and received two responsive e-mails on April 11, 2025, that indicate that Appellee is opposed to the requested relief. Appellee specifically provided that they would not be able to provide their position this same day.

/s/ William P. Ramey, III
William P. Ramey, III

CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that all counsel of record who have appeared in this case are being served on this day of April 21, 2025, with a copy of the foregoing via e-mail.

/s/ William P. Ramey, III
William P. Ramey, III