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Kyocera International, Inc. and Kyocera Wireless Corp.

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST,

Plaintiff,

v.

KYOCERA INTERNATIONAL, INC., a California corporation; KYOCERA WIRELESS CORP., a Delaware corporation; and DOES 1-100,

Defendants.

KYOCERA INTERNATIONAL, INC., a California corporation; KYOCERA WIRELESS CORP., a Delaware corporation,

Counterclaimants,

v.

JENS ERIK SORENSEN, as Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST,

Counterdefendant.

Case No.: 08 CV 0411 BTM (CAB)

DECLARATION OF VICTOR M. FELIX IN SUPPORT OF KYOCERA'S MOTION TO STAY PENDING OUTCOME OF REEXAMINATION PROCEEDINGS

Date: May 2, 2008
Time: 11:00 a.m.
Ctrm.: 15
Judge: Hon. Barry Ted Moskowitz

NO ORAL ARGUMENT UNLESS REQUESTED BY THE COURT

I, Victor M. Felix, declare:

1. I am a partner with the law firm of Procopio, Cory, Hargreaves & Savitch LLP and one of the attorneys of record for Defendants and Counterclaimants Kyocera International,

Inc. and Kyocera Wireless Corp. (collectively, "Kyocera"). I have personal knowledge of the facts set forth herein and, if called upon as a witness could and would testify competently thereto.

2. I obtained documents from the files of the United States Patent and Trademark Office ("PTO") through the PTO's Public Patent Application Information ("PAIR") website portal, available at www.uspto.gov.

3. Attached as Exhibit 1 to Kyocera's Notice of Lodgment in Support of Its Motion to Stay Pending Outcome of Reexamination Proceedings (the "Notice of Lodgment") is a true and correct copy of a September 10, 2007 Opinion Memorandum/Order staying the litigation in the case entitled *Sorensen v. Black & Decker, et al.*, USDC for the Southern District of California Case No. 06CV1572 BTM (CAB) [Doc. #243].

4. Attached as Exhibit 2 to Kyocera's Notice of Lodgment is a true and correct copy of the PTO's grant of Black & Decker's Request for Reexamination dated October 11, 2007 (Application/Control Number 90/008,775).

5. Attached as Exhibit 3 to Kyocera's Notice of Lodgment is a true and correct copy of the PTO's grant of Phillips Plastic's Request for Reexamination dated February 21, 2008 (Application/Control Number 90/008,976).

6. Attached as Exhibit 4 to Kyocera's Notice of Lodgment is a true and correct copy of a January 16, 2008 Opinion Memorandum/Order staying the litigation in the case entitled *Sorensen v. Digital Networks North America, Inc.*, USDC for the Northern District of California Case No. C 07-05568 JSW, [Doc. # 39].

7. Attached as Exhibit 5 to Kyocera's Notice of Lodgment is a true and correct copy of a PTO publication entitled Ex Parte Reexamination Filing Data, dated June 30, 2006.

8. Attached as Exhibit 6 to Kyocera's Notice of Lodgment is a true and correct copy of H.R. Rep. No. 96-1307, Part 1 (1980), reprinted in 1980 U.S.C.C.A.N. 6460-6463.

9. On February 8, 2008, a hearing on a motion to stay proceedings pending the outcome of reexamination proceedings was heard in this Court in the case entitled *Sorensen v. Giant International (USA) Ltd.*, USDC for the Southern District of California Case No. 07CV2121 BTM (CAB). No ruling has yet issued in that case.

10. On March 14, 2008, a hearing on a motion to stay proceedings pending the outcome of reexamination proceedings was scheduled to be heard in this Court in the case entitled *Sorensen v. Esseplast USA (NC), Inc.*, USDC for the Southern District of California Case No. 07CV2277 BTM (CAB). No ruling has yet issued in that case.

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

Executed this 24th day of March, 2008, at San Diego, California.

s/Victor M. Felix
Victor M. Felix