

2023-103

**United States Court of Appeals
for the Federal Circuit**

In Re:

NIMITZ TECHNOLOGIES LLC,

Petitioner.

*On Petition for a Writ of Mandamus to the United States District Court
for the District of Delaware in Case Nos. 1:21-cv-01247-CFC,
1:21-cv-01362-CFC, 1:21-cv-01855-CFC and 1:22-cv-00413-CFC
Honorable Colm F. Connolly, Judge*

**REPLY IN FURTHER SUPPORT OF
PETITION FOR A WRIT OF MANDAMUS**

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DECEMBER 2, 2022

CERTIFICATE OF INTEREST

Pursuant to Federal Circuit Rule 47.4, Counsel for the Petitioner Nimitz Technologies LLC (“Nimitz”) certifies the following:

1. The full name of every party or *amicus* represented by me is:
Petitioner Nimitz Technologies LLC
2. The name of the real party in interest represented by me is:
Not applicable.
3. All parent corporations and any publicly held companies that own 10% or more of the stock of the party or *amicus* represented by me are:
None
4. The names of all law firms and the partners or associates that appeared for the party or *amicus* now represented by me in the trial court or agency or are expected to appear in this court (and who have not or will not enter an appearance in this case) are:
Raymond W. Mort, III, The Mort Law Firm, Pllc, 501 Congress Ave. Suite 150, Austin, Texas · 78701
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:

(all cases pending in the District of Delaware)

Backertop Licensing LLC v. August Home, Inc.	1:22-cv-00573-CFC
Backertop Licensing LLC v. Canary Connect, Inc	1:22-cv-0572-CFC
Lamplight Licensing LLC v ABB, Inc.,	1:22-cv-0418-CFC
Lamplight Licensing LLC v Ingam Micro, Inc.,	1:22-cv-1017-CFC
Mellaconic IP, LLC v. Timeclock Plus, LLC	1:22-cv-0244-CFC
Mellaconic IP, LLC v. Deputy, Inc.	1:22-cv-0541-CFC
Creekview IP LLC v. Skullcandy Inc.	1:22-cv-00427-CFC
Creekview IP LLC v. Jabra Corp.	1:22-cv-00426-CFC

Swirlate IP LLC v. Quantela, Inc.	1:22-cv-00235-CFC
Swirlate IP LLC v. Lantronix, Inc.	1:22-cv-00249-CFC
Waverly Licensing LLC v. AT&T Mobility LLC	1:22-cv-00420-CFC
Waverly Licensing LLC v. Granite River Labs Inc.	1:22-cv-00422-CFC

6. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None.

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SUMMARY OF REPLY

Respondents use the word “fraud” a dozen times in the brief, as its defense of the Memorandum Order and the district court’s inquisition is that Petitioner had committed fraud on the court. (AnsBr1,2,24,25,26,28,29,32). Yet, Respondents have not demonstrated that Petitioner did anything that is legally objectionable, much less something that could meet the normal universal standards of fraud. Petitions are determined by facts and law, and not by the number or variety of invective or by *ipsi dixit*.

At its end, Respondents’ brief finally confirms that the district court is operating outside of any statute or rule and is attempting to impose its own personal view of patent policy. The district court issued the Memorandum Order to determine who were the alleged “real parties in interest” and to determine who was in “control.” But the district court has not demanded that other litigants explain who are “the real parties in interest” or who “controls” the litigations.” The district court’s need for such disclosure is limited to a select class of plaintiff patent owners that the district court views with disfavor because of their business model. Yet, Respondents all but admit that Congress has not treated plaintiff patent owners differently based on who might have financial interests in the outcome or who controlled the litigations. Congress defined the “real party in interest” in the Patent Act and in the Rules, and Petitioner is the real party in interest under the law.

Unsatisfied with that Congressional choice, the district court and Respondents are attempting to bludgeon that disfavored class of plaintiffs to discover details of their business and litigation strategies even though the facts are admittedly irrelevant, or, at least, neither the district court nor Respondents have been able to connect to any issue that a court can consider. Thus, neither the district court nor Respondents addresses the ultimate point of the district court's inquisition. Assuming, *arguendo*, that everything that the district court and Respondents argue is true—which it is not—Respondents do not suggest any outcome beyond titillating gossip and disclosing Petitioner's litigation strategies and work-product. Respondents do not even suggest, as they cannot, that, even if everything by the district court advocated was true, that the discovered facts could somehow restrict Petitioner or similarly situated patent owners in the enforcement of their patent rights. Respondents cannot do so because any such restriction contradicts the Patent Act that *requires* that patent infringement cases be brought by the legal title holder to the patent and does not require disclosure of others who might have a financial interest.

The Memorandum Order with its requirements that Petitioner disclose every financial detail of its business and disclose its litigation strategies is not directed to anything relevant under existing law, but is an attack by the district court of a class of patent owners that the district court has determined do not deserve to be heard—

notwithstanding that pesky Patent Act and unfortunate Rules that permit Petitioner's business model. The Memorandum Order and the district court's inquisition reflect a personal patent policy that deliberately challenges existing law where Congress had made a different choice.

REPLY TO RESPONSES' MISTATEMENTS OF FACTS

A. Respondents Misstate the Proceedings

Respondents state that the district court "began conducting ... an independent investigation into Petitioner's corporate disclosure statements." (AnsBr1). That is incorrect. The district court's Order for the hearing was directed solely to determine whether Petitioner had any third-party non-recourse funding arrangement, and never mentioned the Standing Order regarding Rule 7.1 disclosures. (Appx353, Appx359).

Respondents further assert that Petitioner failed to timely respond to the Standing Orders. (AnsBr5). That is incorrect. Although not required to file any funding disclosure because Petitioner had not entered into any covered arrangement (Appx353), Petitioner voluntarily filed a statement that:

Plaintiff has not entered into any arrangement with a Third-Party Funder, as defined in the Court's Standing Order Regarding Third-Party Litigation Funding Arrangements.

(Appx357). Petitioner's statement was correct and neither the district court nor the Respondents have found any fault or inaccuracy with the Petitioner's statement.

Similarly, Petitioner was not required to submit any response to the district court's Rule 7.1 Standing Order because Petitioner is not a "nongovernmental joint venture, limited liability *corporation*, partnership, or limited liability partnership." (Appx352). Again, however, as a prophylactic measure, Petitioner filed a disclosure that identified Mr. Hall, and, further, expressly noted that the Standing Order "does not require disclosure of entities who may have a financial interest in the outcome of the litigation." (Appx355). The district court never questioned Petitioner's understanding or statement.

Respondents' complaint, however, illustrates the lack of impartiality by the district court. For example, Respondent Bloomberg L.P. filed a disclosure that stated that "Bloomberg Inc., Bloomberg L.P.'s general partner, owns 99.5%, of Bloomberg L.P. and BLP Acquisition L.P. owns the remaining 0.5%." (Appx495-496). Respondent, however, never complied with the requirement that each party must disclose "the name of every owner, member, and partner of the party, proceeding up the chain of ownership until the name of every individual and corporation with a direct or indirect interest in the party has been identified." (CA 1:22-cv-00413-CFC). Who owns BLP Acquisition L.P.? The district court apparently excused that lapse as irrelevant for defendants.

B. Respondents' Misstatement Regarding the '328 Patent

Respondents allege that the district court does not believe that the claims of

the '328 Patent are patentable, citing part of the district court's statement at the end of a 35 U.S.C. §101 hearing on the patentability of the '328 patent claims. (AnsBr3).

Respondents' quotes are incomplete. The district court actually was referring to the comparison that Petitioner had made of the claims of the '328 Patent with the claims of patents that this Court had held were patentable, and then lamented that this Court would overturn any determination of invalidity in view of the cited precedent of this Court:

THE COURT: I look at this patent, and I think this should not be a patent. This is abstract. This is somebody coming on and, basically, trying to get a foothold in an industry by putting on paper what is just a methodology.

I, as a judge, dealing with a lot of patent cases, don't like these types of patents. It would take me a good bit of effort to write an opinion that would --and I haven't made a definitive judgment, but I'm just saying this is where I am, it would take me a good -- it would be a lot of effort to write something up like that and then go up to the Federal Circuit where they have upheld claims.

And I think Mr. Pazuniak did a very nice job of showing the types of claims. And it would depend on what panel you get.

(Appx430).

Thus, all that one can gather is that the district court disagrees with this Court's view of patentable subject matter.

C. Respondents' Irrelevant Excerpts of the District Court's Inquisition of Mr. Hall and Other Patent Owners

Respondents devote a large section of their brief to quoting the district court's interrogation of Petitioner's managing member. (AnsBr6-13). Respondents

followed these lengthy excerpts by quoting also the district court's interrogation of the principals of other patent owners. (AnsBr13-21). Three points arise from the interrogation.

First, the district court ordered the hearing solely "to determine whether Plaintiff has complied with the Court's standing order regarding third-party litigation funding...." (Appx359). It is, therefore, less than surprising that Mr. Hall and the other witnesses were flustered to be suddenly faced with questions by a judge for which they had not given thought or for which they could not have prepared.

Second, Respondents cite no authority as to why this Court could or should consider testimony by third parties.

Third, notwithstanding the surprise inquisition by the district court, and considering all the testimony cited by Respondents, there is still no suggestion of any wrongdoing by Petitioner or any of the other patent owners. For example, Petitioner's principal and counsel denied any third-party non-recourse funding, and nothing in the record challenges those denials. (Appx377 at 71:8-18; Appx370 at 43:17-22; Appx370 at 44:8-11). The district court and Respondents may dislike the business model that Mr. Hall described, but neither can point to anything in the law that would impeach Petitioner's actions.

D. Respondents' Assertions Regarding Petitioner's Address

Respondents repeatedly refer to the fact that Petitioner utilizes a virtual office

address, going so far as to imply that the use of such address supports a fraud on the court. (AnsBr7-8,24,29).

The Complaints state that Petitioner has “its office address at 3333 Preston Road STE 300, #1047, Frisco, TX 75034.” (Appx23, Appx82, Appx156, Appx253). That address is a virtual address in the sense that it is an address of a host that acts as an office for any number of companies. Anyone interested in investigating Petitioner’s address could use Google Maps to determine that the address is that of a Staples store that provides virtual office host services, as do “over 1,000 select Staples Stores” across the country. (Appx497) (<https://www.staples.com/stores/services/iPostal1>).

The Court can take judicial notice that such virtual offices are ubiquitous. See, for example,

<https://www.regus.com/en-us/virtual-offices>;

<https://www.opusvirtualoffices.com>;

<https://www.northwestregisteredagent.com/business-address/virtual-office>;

<https://www.davincivirtual.com>.

Neither the district court nor the Respondents have cited any basis for suggesting that a common practice of using virtual offices justifies the Memorandum Order or the inquisition undertaken by the district court here. Again, the district court had not issued any Standing Order requiring that litigants describe their

mailing addresses or identify virtual office addresses. Such virtual offices are an issue only with respect to a disfavored class of litigants.

ARGUMENT

I. Nimitz Has A Clear And Indisputable Right To The Writ

A. “Inherent Authority” Does Not Justify the Memorandum Order or Inquisition of Petitioner

Respondents argue that the Memorandum Order and the district court’s inquisition of Petitioner is supported by the district court’s “inherent authority.”

But “inherent authority” is not a magical phrase that authorizes any action by a court. A court has only “*certain* implied powers must necessarily result to our Courts of justice from the nature of their institution,’ powers ‘which cannot be dispensed with in a Court, because they are necessary to the exercise of all others.’” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) (emphasis supplied). Because they are extraordinary, “inherent powers must be exercised with restraint and discretion” *Chambers*, 501 U.S. at 44-45.

A key restriction on “inherent power” is that its exercise cannot conflict with or circumvent federal statutes. See *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) (“the exercise of an inherent power cannot be contrary to any express grant of or limitation on the district court’s power contained in a rule or statute”); *In re Intel Corp.*, 841 F. App’x 192, 194 (Fed. Cir. 2020) (“plain reading of the above-noted statutes simply leaves no room to invoke such [inherent] authority here”).

The district court justified the Order as determining “the real parties in interest.” (Appx2, Appx386, Appx405, Appx409). But Respondents have not challenged Petitioner’s demonstration that Congress has already defined “the real parties in interest.” Thus, the principle of “*expressio unius est exclusio alterius*” precludes the relevance of any determination that would look toward “the real party in interest” beyond that required by Congress. *Leatherman v. Tarrant Cnty. Narcotics Intel. & Coordination Unit*, 507 U.S. 163, 168 (1993) (“the Federal Rules do address in Rule 9(b) the question of the need for greater particularity in pleading certain actions, but do not include among the enumerated actions any reference to complaints alleging municipal liability under §1983.”); *Meghrig v. Kfc W.*, 516 U.S. 479, 488 (1996) (“It is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it.”).

As this Court has noted:

Congress defines the existence and scope of patent rights. Unless Congress has directed the courts to fashion governing rules in a particular statutory context (as in, e.g., the Sherman Act), “once Congress addresses a subject, even a subject previously governed by federal common law, the justification for lawmaking by the federal courts is greatly diminished. Thereafter, the task of the federal courts is to interpret and apply statutory law, not to create common law.”

Lexmark Int’l, Inc. v. Impression Prods., 816 F.3d 721, 734 (Fed. Cir. 2016) (internal citations omitted).

“Inherent authority” does not authorize the district court’s discovery of information that departs from that which Congress has deemed relevant. Even if the district court had the “inherent authority” to investigate the “real parties in interest,” the district court’s demand that Petitioner surrender all its financial records and litigation strategies is not narrowly tailored to the court purported needs.

Respondents further assert that the district court must preserve the court’s integrity, avoid fraud and investigate filings. (AnsBr23-24). But neither the district court nor Respondents can point to anything that suggests any impropriety by the Petitioner. As noted earlier, even accepting everything that the district court and Respondents allege to be the facts, Petitioner has acted entirely as prescribed by the patent Act and the Rules.

Despite Respondents’ unsupported arguments, there is nothing improper about Mr. Hall and Mavexar approaching patent enforcement as an “investment.” (AnsBr24). “Patents shall have the attributes of personal property.” 35 U.S.C. §261. A district court has no right to restrict the use of that personal property beyond any applicable statutory provisions even if the court does not like the business model.

Nor is there anything improper in Petitioner delegating control of litigation to counsel and Mavexar. Petitioner, as patent owner, can choose to either enforce its patents or disclaim them or just do nothing. But having chosen to enforce, patent enforcement is a specialized pursuit of which few lay people have sufficient

experience and competence to handle. As Mr. Hall stated and as Respondents argue, Petitioner is an investor in a business arrangement and model. Petitioner employed Mavexar as its consulting agent and retained counsel, and then left enforcement in their hands. That this arrangement fails to meet the district court's view of proper patent enforcement does not justify the extraordinary exercise of inherent authority to investigate Petitioner when neither the district court nor Respondents can point to any statute or Rule violated by Petitioner's business model.¹

Respondents next inaccurately argue that "when specifically required by the Court to disclose interested parties and its source of litigation funding, Petitioner (and related entities) repeatedly failed to identify Mavexar." (AnsBr25). In fact, the district court's Standing Orders never asked Petitioner to "disclose interested parties

¹ In excess of caution, Petitioner notes that Petitioner had the right to authorize Mavexar to act as its consulting agent to act on Petitioner's behalf as if it was the client. Thus, the Restatement 3d of the Law Governing Lawyers, §134(2) provides:

- (2) A lawyer's professional conduct on behalf of a client may be directed by someone other than the client if:
- (a) the direction does not interfere with the lawyer's independence of professional judgment;
 - (b) the direction is reasonable in scope and character, such as by reflecting obligations borne by the person directing the lawyer; and
 - (c) the client consents to the direction under the limitations and conditions provided in § 122.

and its source of litigation funding,” as Respondents argue. One Standing Order required parties to disclose their owners (and pointedly did not ask for identification of parties that may have a financial interest in the litigation), and the second to identify any “third-party non-recourse funding.” Petitioner properly and correctly answered both, and, further, to avoid any issues, explained its responses. (pp. 3-4, *supra*). Petitioner’s disclosures were complete and honest, and indeed, exceeded the requirements of the Standing Orders. *Id.* Nothing in Petitioner’s responses suggests any wrongful withholding or misrepresentation. “Inherent authority” cannot be supported by Respondents’ misstatement of the Standing Orders or Petitioner’s responses to them.

There is no evidence of any misconduct or fraud, but only the district court’s dislike for the Petitioner’s business model of patent enforcement. Nor is there anything in the record that could support the wholesale invasion of Petitioner’s financials and litigation strategies reflected by the Memorandum Order. The Memorandum Order and the district court’s inquisition of Petitioner are not proper exercises of the court’s inherent power, but only undermine Petitioner’s statutory right to enforce a patent of which it is the owner.

B. “Inherent Authority” Cannot Mask Denial of Petitioner’s Right to Equal Protection and Due Process

Although “inherent authority” does not justify the Memorandum Order or the inquisition for reasons stated above, there is a Constitutional problem with Respondents’ argument.

Respondents assert that the district court required production of the documents listed in the Memorandum “so that Judge Connolly can determine whether recusal is required.” (AnsBr36). If concern for impartiality supports the district court’s “inherent authority,” then it is hard to fathom why all other parties before the district court are not similarly required to produce the same documents as are required of Petitioner, including, for example, documents related to “the nature, scope, and likelihood of any liability” and “the settlement or potential settlement of these cases,” as the district court required of Petitioner. (Appx3). The district court did not issue the Memorandum Order to determine recusal in any cases except a select few. Petitioner is being treated differently than other parties, differently than other Plaintiffs, and differently than other patent owners seeking to enforce their patent rights. Again, neither the district court nor the Respondents have pointed to anything that Petitioner did that could justify such discrimination. Respondents are essentially asking this Court to approve blatant denial of equal protection and due process to Petitioner.

C. Rule 83 Has No Relevance Here

Respondents assert that the district court's Standing Orders are supported by Fed. R. Civ. P. Rule 83(b). (AnsBr25-27). Respondents' arguments are directed to the district court's Standing Order under Rule 7.1, and not the third-party non-recourse funding Standing Order which the district court cited in ordering the hearing and, presumably, the subsequent Memorandum Order.

In any event, Petitioner is not asking at this juncture for the Court to reverse the Standing Orders, as they are moot at this juncture. Petitioner requested a "a writ of mandamus reversing the Memorandum Order, and directing the district court to terminate its judicial inquisition of the Petitioner." (Dkt. 2-1 at 3, 27). Petitioner did not ask the Court to reverse either Standing Order. That issue may arise in the future, but is not before the Court here.

D. The District Court Has No Basis To Review Privileged Documents

The Memorandum Order required Petitioner to produce manifestly privileged documents, including, for example, documents related to "the nature, scope, and likelihood of any liability" and "the settlement or potential settlement of these cases." (Appx3). Respondents represent that that the Order does not require waiver of privilege or disclosure to the public. (AnsBr32). But then Respondents assert that any privileged documents should be submitted to the district court "in view of alleged fraud," citing *In re Zolin*, 491 U.S. 554 (1989). (AnsBr32).

The preliminary problem with Respondents' argument is that there is no "alleged fraud." The Order does not use the word, and, as pointed out repeatedly in this brief, there is no evidence of any fraud by Petitioner, notwithstanding Respondents' unsupported statements.

The second problem with Respondents' arguments is that *Zolin* explicitly allows judicial inspection of privileged documents solely to determine whether the documents were created in furtherance of a fraud (the so-called "crime/fraud" exception to privilege), and requires

that before a district court may engage in *in camera* review at the request of the party opposing the privilege, that party must present evidence sufficient to support a reasonable belief that *in camera* review may yield evidence that establishes the exception's applicability.

Zolin, 491 U.S. at 574-75.

Respondents, of course, cannot cite any evidence as required by *Zolin*, and, thus the case cannot support producing any privileged documents to the district court.

There is, however, a more difficult problem inherent in Respondents' argument. Judge Connolly is not a neutral factfinder, but undertook *sua sponte* Petitioner's inquisition, interrogated Petitioner's managing member and has issued the demand for production of documents. As both the investigator and the prosecutor, Judge Connolly cannot adjudicate any issues in this matter as "his

impartiality might reasonably be questioned.” 28 U.S.C. §455(a). Further, Judge Connolly has both demonstrated “a personal bias or prejudice concerning a party” and through his extrajudicial investigation has “personal knowledge of disputed evidentiary facts concerning the proceeding.” 28 U.S.C. §455(b); *compare Liteky v. United States*, 510 U.S. 540, 555 (1994); *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 876 (2009) (“no man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity”); *Williams v. Pennsylvania*, 579 U.S. 1, 8-9 (2016) (“The Court asks not whether a judge harbors an actual, subjective bias, but instead whether, as an objective matter, ‘the average judge in his position is ‘likely’ to be neutral, or whether there is an unconstitutional ‘potential for bias.’”).

II. Nimitz Has No Other Adequate Means To Obtain Relief

Respondents make a *pro forma* argument that Petitioner has other adequate means to obtain desired relief. (AnsBr33-35) Respondents first assert that the Memorandum Order requires only delivery of documents *in camera* to the court. But nothing in the Memorandum Order specifies *in camera* production, and certainly there is nothing to prevent the district court from choosing to publicly disclose any documents. Moreover, any *in camera* production does not resolve the problem that the district court is not a neutral factfinder here, but is the investigator and prosecutor.

Further, filing *in camera* does not resolve the validity of the Memorandum Order *vel non*.

Respondents' final argument effectively concedes that there can be no review after final judgment because the Memorandum Order is irrelevant to any issue before the Court and, thus, can never "influence the outcome of the litigations." (AnsBr35)

III. Mandamus Is Appropriate Here Because the District Court Has Undertaken an Illegal and Unprecedented Crusade Trying to Enforce its Own Patent Policy In Derogation of Congress' Prerogative and This Court's Precedent

Respondents' final argument explicitly confirms Petitioner's argument that the Memorandum Order is the result of the district court's choice to impose its personal policy that "the general public have a compelling interest in the district court identifying the real parties-in-interest controlling and funding Petitioner and its underlying litigations." (AnsBr35). That is the district court's personal policy unrelated to any issue properly before the district court.

If everything that Respondents allege was true—and it is not—the facts would not change any standing, infringement, validity, enforceability, damages or any other issue that the district court or jury would have to consider leading to a final judgment. That is the case because the facts and circumstances of Petitioner's business model are irrelevant and immaterial under existing statutes and Rules.

CONCLUSION AND STATEMENT OF RELIEF SOUGHT

For the foregoing reasons, Nimitz respectfully requests that the Court issue a writ of mandamus directing the district court to vacate its Order, and cease the district court's judicial investigation of the Petitioner.

Respectfully Submitted,

December 2, 2022

/s/ George Pazuniak

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ADDENDUM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIMITZ TECHNOLOGIES LLC,

Plaintiff,

v.

BLOOMBERG L.P.,

Defendant.

C.A. No. 1:22-cv-00413-CFC

JURY TRIAL DEMANDED

DEFENDANT BLOOMBERG'S RULE 7.1 DISCLOSURE STATEMENT

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, the undersigned counsel for Defendant Bloomberg L.P. states that Bloomberg L.P. is a Delaware limited partnership. Bloomberg Inc., Bloomberg L.P.'s general partner, owns 99.5%, of Bloomberg L.P. and BLP Acquisition L.P. owns the remaining 0.5%. No publicly-held company owns 10% percent or more of Defendant's limited partnership interests.

Dated: May 12, 2022

FISH & RICHARDSON P.C.

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- Legal & Policies
- Privacy & Security
- Feedback

Company Information

- About Staples
- Corporate Responsibility
- Supplier Diversity
- Financial Information
- Media Information
- Community Relations
- Accessibility Commitment
- Affiliate Program
- CA Transparency in Supply Chain Act

Staples for Business

- For Business
- Breakroom Solutions
- Facility Solutions
- Furniture Solutions
- Office Products & Services
- Print Solutions
- Tech Solutions
- Contact Staples Business Advantage

Other Staples Sites & Services

- Print & Marketing
- Promotional Products
- Quill.com
- Federal Government Customers

Staples Programs

- Staples Rewards Overview
- Staples Plus
- Staples Premium

Careers

- Staples Inc**
- Corporate/Warehouse/Delivery
- Retail**
- Corporate/Warehouse/Print Facility
- Retail Stores



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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Federal Circuit and served on counsel of record by using the appellate CM/ECF system on December 2, 2022.

A copy of the foregoing was served upon the district court by Federal

Express:

The Honorable Colm F. Connolly
J. Caleb Boggs Federal Building
844 N. King Street
Unit 31
Room 4124
Wilmington, DE 19801-3555

December 2, 2022

/s/ George Pazuniak

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**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 23-103

Short Case Caption: IN RE NIMITZ TECHNOLOGIES LLC, Petitioner.

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Signature: /s/ GEORGE PAZUNIAK

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