



515 South Flower Street, Forty-Second Floor | Los Angeles, CA 90071-2223 | TEL 213.430.3400 | FAX 213.430.3409

July 14, 2015

DIRECT DIAL 213.430.3365 | howard.kroll@tuckerellis.com

Via E-Mail & Hand Delivery

Honorable Mayor Garcia and Council Members
City of Long Beach
333 W. Ocean Boulevard
Long Beach, CA 90802

*Re: Appeal of CEQA Determinations by Board of Harbor Commissioners
re Mitsubishi Cement Corporation's Terminal Modernization Project,
July 14, 2015 Meeting, Agenda Item 5-0633*

We represent Advanced Cleanup Technologies, Inc. ("ACTI") in enforcement of its Intellectual Property. On July 10, 2015, the attorneys for Mitsubishi Cement Corporation ("Mitsubishi") sent a letter to Mayor Garcia and the City Council Members regarding the appeal of CEQA Determinations by Board of Harbor Commissioners re Mitsubishi's Terminal Modernization Project. The purpose of this letter is to address the inaccurate and misleading statements made in that letter regarding the patents of ACTI (see pages 11-13).

First, Mitsubishi's attorneys initially claim that "The ACTI Patent Issues Raised in the Appeal are Meritless and Irrelevant." Letter at p. 11. Mitsubishi is mistaken. Given the fact that ACTI's appellate brief has not yet been filed, it would be pure conjecture at this point to conclude that the patent issues raised in ACTI's appeal are meritless.

Second, Mitsubishi's analysis of the patent infringement lawsuit between ACTI and Clear Air Engineering Maritime, Inc. ("CAEMI") is flawed. Mitsubishi claims that ACTI's patent was found to be invalid. In truth, the Court only found that Claim 19 of the 7,258,710 patent (the '710 patent) was invalid because it was "anticipated" by an earlier patent. Please be aware that Claim 19 is **just 1 of 35 separate claims** found in the '710 patent. We have appealed this ruling to the Federal Circuit Court of Appeals where we plan on showing why the Court was in error.

Third, Mitsubishi refers to Claim 19 of the '710 patent as a "claim regarding a device for securing the bonnet **to** an exhaust stack." Letter at p. 12 (emphasis added). Once again, Mitsubishi is mistaken. In fact, Claim 19 involves a method for emissions control which comprises securing the bonnet **over** an exhaust stack, not **to** an exhaust stack.

Fourth, even if the Court's ruling regarding Claim 19 is affirmed by the Federal Circuit, 32 claims of the '710 patent are still valid and enforceable. For example, Claim 1 of the '710 patent, which is the key claim of the patent, reads: "An advanced maritime emissions control system comprising: a bonnet configured for residing over a ship stack for capturing exhaust from the ship stack, the bonnet contractable around the ship stack to sufficiently grasp the ship stack to hold the bonnet in place over the ship stack; an emissions control unit for processing the exhaust from the stack; and a duct for carrying the exhaust from the bonnet to the emissions control unit." To be clear, the Court did not invalidate Claim 1 of the '710 patent. Thus, anyone who infringes Claim 1 of the '710 patent is liable for

damages and injunctive relief. Although the Court found that CAEMI's devices did not infringe Claim 1, we believe the Court was in error and have appealed that ruling as well.

Fifth, you should be aware that, in addition to the '710 patent, ACTI currently holds the following other patents:

- 8,402,746 Exhaust gas capture system for ocean going vessels
- 8,327,631 Air pollution control system for ocean-going vessels
- 8,075,651 Ellipsoid exhaust intake bonnet (EIB) for maritime emissions control system
- 7,275,366 High thermal efficiency Selective Catalytic Reduction (SCR) system

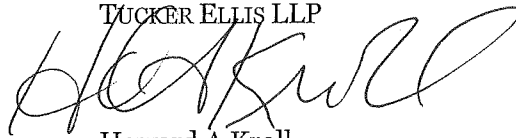
ACTI will vigorously enforce its patent rights in the '710 patent and in its other patents if ACTI discovers that Mitsubishi or any other company is infringing any of ACTI's patents.

ACTI values its relationship with the Port of Long Beach and encourages mitigations that provide for environmental benefits and reduced risk by insulating the Port from either being tied to infringing technology or worse, losing a key mitigation due to infeasibility if a particular device is found to infringe.

If you have any questions regarding these matters, please feel free to contact me.

Very truly yours,

TUCKER ELLIS LLP



Howard A Kroll

HAK:scl