

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SILICON LABORATORIES, INC.  
Petitioner

v.

CRESTA TECHNOLOGY CORPORATION  
Patent Owner

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CASE IPR2015-00626  
Patent 7,265,792

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**TRANSCRIPT OF MAY 26, 2016 TELEPHONIC HEARING**

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Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Case No. IPR2015-00626  
U.S. Patent 7,265,792

Dated: June 7, 2016

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on June 7, 2016, a copy of the foregoing documents was served by electronic mail, as agreed to by the parties, upon the following:

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TELEPHONIC HEARING - 05/26/2016

1 UNITED STATES PATENT AND TRADEMARK OFFICES  
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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5 SILICON LABORATORIES, INC., )  
6 Petitioner, ) Case No.:  
7 vs. ) IPR2015-00615  
8 CRESTA TECHNOLOGY ) IRP2015-00626  
9 CORPORATION, )  
10 Patent Owner. )  
11 \_\_\_\_\_ )

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TELEPHONIC HEARING BEFORE

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JUDGE GREGG I. ANDERSON

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THURSDAY, MAY 26, 2016

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8:00 a.m.

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23 REPORTED BY:

24

Vickie Blair

25

CSR No. 8940, RPR-CRR, CLR

1 Telephonic hearing taken on Thursday,  
2 May 26, 2016, 8:00 a.m., before VICKIE BLAIR,  
3 CSR No. 8940, RPR-CRR, CLR.  
4

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1           Telephonic Hearing; Thursday, May 26, 2016

2                               8:00 a.m.

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5           JUDGE ANDERSON: Good morning. This is Judge  
6 Anderson. This is a conference call in four cases,  
7 IPR2015 592 and 596, MaxLinear vs. Cresta; IPR 615 and  
8 626, Silicon Labs vs. Cresta, involving various patents  
9 which I will not repeat the numbers of.

10           First of all, can we have entries of appearance  
11 on behalf of MaxLinear.

12           MR. SCHODDE: Good morning, Judge. This is Greg  
13 Schodde for MaxLinear. Also with me is Wayne Bradley  
14 and, on another line, Hank Spuhler.

15           JUDGE ANDERSON: Thank you, Mr. Schodde.

16           On the 592, 596 cases can we have Cresta's  
17 appearances, please.

18           MR. FLEMING: Yes, your Honor. This is Mike  
19 Flemming, and also on the line is Ben Haber, and I  
20 believe the IPR number for -- you've been saying 00596,  
21 I believe it's 00594.

22           JUDGE ANDERSON: Okay. Thank you. I'll take  
23 your word for it.

24           On the 615 and 626 cases, who's here for Silicon  
25 Labs, please?

1 MR. AYERS: Peter Ayers for Silicon Labs, your  
2 Honor.

3 JUDGE ANDERSON: And, Mr. Flemming and  
4 Mr. Haber, I assume you're also here on behalf of Cresta  
5 in that matter -- in those two matters, excuse me.

6 MR. FLEMING: No, your Honor. I have to correct  
7 you. We represent Doris Kaitlin, Chapter 7 trustee of  
8 bankruptcy of Cresta Technology account and special  
9 account.

10 JUDGE ANDERSON: Okay. Well, that's what we  
11 here to establish; right?

12 MR. FLEMING: No, your Honor. We're here to --

13 JUDGE ANDERSON: Say that again, please.

14 MR. FLEMING: We're here to establish who's the  
15 patent owner.

16 JUDGE ANDERSON: So who's representing the  
17 patent owner in the 615 and 626 cases?

18 MR. FLEMING: Well, your Honor, before we get  
19 into that, I want to also point out we have a court  
20 reporter on the line.

21 JUDGE ANDERSON: Okay.

22 MR. FLEMING: And let's see if we can have her  
23 identify herself.

24 THE REPORTER: My name is Vickie Blair.

25 JUDGE ANDERSON: All right, Ms. Blair. We had a



1 court reporter recently, so here's what I would like you  
2 to do: If you have any questions about what anybody's  
3 saying, hold them till we're done, and then you can work  
4 it out with the parties; okay?

5 THE REPORTER: Okay.

6 JUDGE ANDERSON: So everybody will speak up for  
7 the court reporter.

8 Now, where were we, Mr. Fleming? You raised  
9 this issue, so maybe I don't understand it. Why don't  
10 you explain it for me.

11 MR. FLEMING: Yes, your Honor. Again, we  
12 represent Doris Kaitlin Chapter 7 trustee of bankruptcy  
13 estate of Cresta Technology, and as special counsel, and  
14 we are under the understanding that the Doris Kaitlin  
15 has assigned the right of U.S. patent number 7,075,585  
16 and U.S. patent number 7,265,792 to an entity which I  
17 will spell out C-S E-R-E-S-C-E, LLC.

18 We were not aware of the assignment until being  
19 told Monday. I see that the assignment is dated last  
20 Thursday, May 19th. We were under the understanding  
21 that the assignment was going to go through another  
22 entity, EVE Credit Funding, so we had been working with  
23 this new patent owner, CFCRSTE, to see if we can't  
24 represent them. We are close to being able to resolve  
25 some issues around them retaining Irell & Manella as

1 counsel. I think we can resolve those issues probably  
2 later today, but as of right at this moment, we have not  
3 resolved those issues.

4 JUDGE ANDERSON: So, first of all, at least one  
5 question that I had, I believe you've at least partly  
6 responded to, and that is your -- so Mr. Fleming sent an  
7 email yesterday indicating that the ownership had  
8 changed. Let me get that, just to make sure I have the  
9 correct situation as you said it, that the patent  
10 ownership has changed, and that was what you advised us  
11 yesterday, Mr. Fleming, and it was only with respect to  
12 the IPR 615 and 626.

13 So with respect to the patents on the 592 and  
14 594 cases, I know Mr. Wimbiscus and -- well, Mr. Schodde  
15 specifically, did not get a response -- did not get the  
16 email.

17 So what about those patents? What's the status  
18 there?

19 MR. FLEMING: There's only two patents involved  
20 in all four IPOs.

21 JUDGE ANDERSON: Okay. That's great. So the  
22 updated ownership needs to happen with respect to all  
23 four IPRs; right?

24 MR. FLEMING: That's correct.

25 JUDGE ANDERSON: All right. And, apparently,

1 you have already filed, according to -- Judge Kauffman  
2 advises me that you have filed an updated mandatory  
3 notice with respect to the real party in interest in all  
4 four cases; is that correct?

5 MR. FLEMING: That's correct. On another --  
6 Doris Kaitlin, the real party in interest, as well as --

7 JUDGE ANDERSON: I'm sorry, as well as who?

8 MR. FLEMING: No. It was as well as EBT Credit  
9 Funding, another entity that we thought was going to be  
10 the owner of the current patent.

11 JUDGE ANDERSON: So what we need to do is update  
12 the cases to -- I mean, first of all, you've done the  
13 real party in interest, so that's great. The question  
14 is how do we add in the real party in interest into the  
15 case beyond the notice, mandatory notice, and your  
16 question to us was whether we just file a notice or a  
17 motion is required.

18 And we're going to ask you to file a motion,  
19 Mr. Fleming, to add the real parties in interest, as  
20 you've identified them already in the mandatory notice.  
21 I didn't see, and I did a little bit of looking, I don't  
22 think our rules have any specific procedure for doing  
23 this, but under our general conduct of the proceedings,  
24 authority, and looking at Federal Rule of Civil  
25 Procedure 19 as a guide, it seems like there is a party

1 now that has an interest in the subject matter of the  
2 proceeding, and we want to make sure that petitioner  
3 does not have the possibility of being subjected to  
4 inconsistent results here. So we want to add the real  
5 parties in interest to the case, and we want to do that  
6 by motion.

7 So what the panel would like you to do is go  
8 ahead and file a motion to add the real party and -- the  
9 new real party in interest to the case, both -- all four  
10 cases, and because we have such short time, but I don't  
11 believe the motion will take too much in the way of  
12 effort, I want you to do that by tomorrow. That's May  
13 whatever it is, 27th.

14 So the first question is: Can you do that,  
15 Mr. Fleming?

16 MR. FLEMING: Your Honor, can I get some  
17 clarification first? We would be filing a motion to  
18 give you notice of the new patent owner, as well as  
19 notice of the real party in interest, and I assume that  
20 means the caption of the case will be changed.

21 JUDGE ANDERSON: Yes, I think that's right.  
22 That's what I'm expecting, yes.

23 MR. FLEMING: Right. And then the next question  
24 is that I would assume you would want me to file with  
25 the motion an exhibit showing this assignment from Doris

1 Kaitlin to this new entity.

2 JUDGE ANDERSON: I would think that would be  
3 great if you could do it, and it sounds like you can.  
4 The more you establish what has happened since we got  
5 this case off track, the better.

6 I think what the panel would like to see is a  
7 chronology, really, of what's happened all along in  
8 terms of how this case went into bankruptcy, when that  
9 happened, and what happened since then. And I know  
10 Judge Kauffman had done a good job of documenting a lot  
11 of that, but having it all in one place so that we can  
12 get this final step done would be good.

13 Now, one other thing I see a question from one  
14 of my judges on the panel is we're assuming that the  
15 entire interest was assigned to this CS Trustee, LLC; is  
16 that right?

17 MR. FLEMING: Yes, your Honor, that's right,  
18 from the assignment paper.

19 JUDGE ANDERSON: Right. So we'll see that in  
20 the assignment that you're going to submit along with  
21 the motion; right?

22 MR. FLEMING: Right. One more detail, if I may.

23 There is an issue that we're trying to resolve  
24 as far as allowing our firm to represent this new entity  
25 because it is a subsidiary of another entity, and, of

1 course, when we file the motion, we'll also update that  
2 as a real party in interest.

3 But the reason I'm bringing this up is there is  
4 a possibility that the issue will not be resolved. I  
5 think that there's also a possibility, but I would like  
6 to request that if we can't resolve this this afternoon  
7 that we file a motion to withdraw, if permission from  
8 you to file a motion to withdraw effective tomorrow.

9 JUDGE ANDERSON: So this is -- just so I  
10 understand, this is because you may not be authorized to  
11 represent the parent of the -- of this --

12 MR. FLEMING: No, your Honor. It's an issue of  
13 obtaining a waiver of conflict in the issue.

14 JUDGE ANDERSON: But, ultimately, you wouldn't  
15 be able to represent the parent, is the bottom line.

16 MR. FLEMING: That's the bottom line.

17 JUDGE ANDERSON: All right.

18 MR. SCHODDE: Your Honor, this is Greg Schodde  
19 for MaxLinear. May I be heard briefly?

20 JUDGE ANDERSON: Yeah, no, I was getting to you,  
21 Mr. Schodde. Let me just make sure that we don't have  
22 anything more from Mr. Fleming, then I absolutely want  
23 to hear from you.

24 Mr. Fleming, anything more to make sure we're  
25 aware of here?

1 MR. FLEMING: No, your Honor. I think I've told  
2 you all the facts that I know, and I appreciate you  
3 scheduling this time so quickly. We were having a  
4 difficult time on the Rule 2 to figure out what would be  
5 the best way to do this.

6 JUDGE ANDERSON: Yeah, I -- and I appreciate  
7 that you, you know, we're all -- I want to make it clear  
8 to all the parties, this is not -- I think Judge  
9 Kauffman made a comment the other day, we're having to  
10 do some things on a much shorter timeline than we would  
11 like to, and I know it, and then we've got the holiday  
12 weekend coming up, so we're definitely of the mind that,  
13 you know, you all need to work together, we need to try  
14 to help you so we can keep this -- the hearings in place  
15 and move along with these proceedings.

16           So, thank you, appreciate the early notice,  
17   early as you could, I gather, on the email.

18           Now, Mr. Schodde, on behalf of MaxLinear, what  
19   do you have?

20 MR. SCHODDE: Thank you, your Honor. And I'll  
21 try to be brief because a wise person once told me about  
22 some situations like this, "don't get wet before it  
23 rains."

24 But, that said, I did hear Mr. Fleming say he  
25 might file a motion to withdraw based on a conflict with

1 the ownership of the CFCRSTE entity, who is now the  
2 owner of all the interests in the patents in these  
3 petitions.

4 My objection is that if that's the situation,  
5 it's entirely created by DBD Credit Funding, who is  
6 Mr. Fleming's current client by appointment through the  
7 trustee. They got the power to [unintelligible] direct  
8 litigation, and DBD Credit Funding, which is one of the  
9 fortress hedge fund entities, created CFCRSTE on  
10 May 18th. The next day, the trustee, at DBD Credit  
11 Funding's direction, executed the assignment to CFCRSTE,  
12 LLC. CFCRSTE, LLC, who's is the owner here, has already  
13 moved to substitute themselves as a party of the appeals  
14 of the earlier Silicon Labs IPRs on these patents.

15 In that appeal they got a statement under a  
16 Federal Rule 71 of who the owner of them is, that owner  
17 is another alphabet soup LLC created for litigation  
18 purposes in the hedge fund family of fortress called  
19 CFBDLZ, LLC, whatever that is, and they're the owner, I  
20 believe, that Mr. Fleming is talking about. But all of  
21 these entities are created by this fortress group, and  
22 to the extent that there is a problem here, fortress  
23 created it by making the assignment the way that they  
24 did.

25 And, for that reason, if we could go forward on



1 kind of a representation -- if Mr. Fleming has a problem  
2 with representation, we're going to oppose that. We  
3 think that there's no reason at all at this point to  
4 derail the hearing. We worked really hard trying to  
5 catch up and meet the board's deadline. But if there's  
6 a problem now because of this, it's a problem that DBD  
7 Credit and the trustee created, and they did it on  
8 purpose.

9 JUDGE ANDERSON: Well, yeah, there's --

10 MR. FLEMING: And --

11 MR. SCHODDE: And I circle back to, well, let's  
12 not get wet before it rains.

13 JUDGE ANDERSON: They're dealing with the  
14 bankruptcy, yeah, Mr. Fleming, what do you want to say?

15 MR. FLEMING: I just want to make clear on the  
16 record that we only have representation for Doris  
17 Kaitlin, although Doris may have been getting direction  
18 from DBD Credit Funding, and that's why [unintelligible]  
19 the real party in interest representing DBD in any way.  
20 I just want to make that clear.

21 And the issue is that new real party in interest  
22 that is the parent company of this new entity, which I  
23 won't be able to disclose, that's an issue of -- that  
24 arises as a conflict [unintelligible].

25 JUDGE ANDERSON: All right. Before we go any

1 further, Mr. Ayers, you have not been heard from yet.

2 Do you have anything to add to any of this?

3 MR. AYERS: No, your Honor, I guess other than I  
4 share Mr. Schodde's view that we would like this hearing  
5 to go forward as scheduled if at all possible, and we  
6 understand, you know, conflicts, but certainly would  
7 like to do what we can to make sure that that goes  
8 forward.

9 JUDGE ANDERSON: Well, I think everybody is of  
10 that thinking, I think even Mr. Fleming wants to do  
11 that, but we have to be aware that conflicts of interest  
12 are not to be taken lightly, and we -- I'm going to look  
13 at Mr. Schodde's quote that nobody's wet yet, so I think  
14 as far as the conflict thing we will -- I'll want to  
15 talk to the panel before we adjourn this call, but my  
16 inclination is that the we will give you authority to  
17 file a motion to withdraw, if necessary, that is not an  
18 indication that we will grant it, and we will -- that  
19 needs to be --

20 Are you going to know by the end of the day  
21 without question, Mr. Fleming, about this conflict  
22 situation?

23 MR. FLEMING: Your Honor, I was in conference  
24 with them literally all morning trying to work this out.  
25 I believe we finally have some sort of resolution, but

1 it came down to such a late -- I mean, literally 10  
2 minutes before this call, and I haven't had a chance to  
3 run this by our general counsel and make sure that our  
4 general counsel is in agreement, but it looked pretty  
5 good to me at that point.

6 So if, in fact, you know -- you want me to give  
7 you an email if, in fact, I do have problems with it  
8 later.

9 JUDGE ANDERSON: Yes, yes, I think that the  
10 minute you are aware that that you cannot or at least  
11 feel you cannot, represent the ultimate real party in  
12 interest, or a real party in interest, then, yes, give  
13 us an email, and we may need to have another call on  
14 very short notice today, so we'll just hope that that  
15 doesn't need to be done.

16 Now, back to the -- I'm going to call it  
17 joinder, substitution may be more appropriate, but we're  
18 going to call it joinder -- or I'm going to call it  
19 joinder.

20 What I think we should do here, and I'll get the  
21 feedback of the panel in a moment, is I'd like you,  
22 Mr. Fleming, to, by tomorrow, file a motion to join  
23 whatever real parties in interest there are to the  
24 current case and -- cases, and get back to something I  
25 don't think you answered: Are you going to be able to

1 do that with your attached assignment and whatever other  
2 sort of -- again, a chronology of what's happened, the  
3 bankruptcy, the resolution as far as the stay with  
4 respect to the these four cases, set all that out, and  
5 ask to have the real parties in interest, as you name  
6 them, joined into the case? Can you do all that by  
7 tomorrow?

8 MR. FLEMING: Yes, your Honor, as long as I have  
9 authorization to represent the new owner.

10 JUDGE ANDERSON: Okay. And I understand that's  
11 an issue.

12 Now, I don't want to have this be anything  
13 that's really contested. My recollection, though Judge  
14 Kauffman has done a great job of running this case with  
15 the assistance of Judge Boucher, more than I have been,  
16 my recollection is one of the petitioners, at least,  
17 maybe both of you, were concerned about the real party  
18 in interest question awhile ago.

19 So this motion needs to be, if at all possible,  
20 it needs to be filed as an unopposed motion, so I'm  
21 going to leave it to the parties to figure out how to  
22 make that happen. If you need to run a draft by the  
23 petitioners, then please do so, Mr. Fleming, but let's  
24 not get this to an opposed or contested situation.

25 I don't see any reason that it should be. I

1 think everybody's been aware of these circumstances and  
2 the real party in interest question for quite some time.

3 So first to you, Mr. Fleming, are you willing to  
4 do whatever you need to do to get the agreement of the  
5 petitioner, try to get --

6 MR. FLEMING: I will do my best, Judge.

7 JUDGE ANDERSON: I'm not saying you have to; I'm  
8 just --

9 Now, Mr. Schodde, are you going to be able to do  
10 that, work with Mr. Fleming, to get that accomplished by  
11 tomorrow?

12 MR. SCHODDE: Yes, your Honor. And always  
13 mindful of the parable that I mentioned at the  
14 beginning, I think at least to the extent that they want  
15 to change the nominal patent owner on the case for the  
16 purpose of the case caption, who is the patent owner,  
17 there's going to be no opposition to substituting  
18 CFCRSTE, LLC, for Cresta Technology.

19 JUDGE ANDERSON: What about the -- I have to say  
20 I'm confused what about the entity that owns CF --

21 MR. FLEMING: Your Honor.

22 JUDGE ANDERSON: Yeah, Mr. Fleming.

23 MR. FLEMING: Here's what I suggest to make this  
24 simple, is the motion, joint motion, would be just for  
25 the new patent owner, and then I will file a mandatory

1 motion for the real parties in interest that will be  
2 agreed based on they can choose to argue that it might  
3 be improper on the merits of the case, or in the oral  
4 hearing, but the real issue here is who is the patent  
5 owner, and [unintelligible] so if we could just limit it  
6 to a motion for joining in the new patent owner, and  
7 then also an understanding that I will file a mandatory  
8 notice stating who the real parties in interest are, I  
9 think that that would make that simpler.

10 JUDGE ANDERSON: I think that sounds appropriate  
11 and proper, and remembering that our only -- our  
12 jurisdiction primarily is over the patent, so we want  
13 the patent owner in the case, and that seems like an  
14 appropriate thing for the motion. The notice can add  
15 whatever additional real parties in interest -- the  
16 notice, excuse me, can add whatever additional real  
17 parties in interest there are.

18 Mr. Schodde first, then I'll get to Mr. Ayers.

19 MR. SCHODDE: Yes, your Honor, I think that  
20 sounds -- sounds appropriate, and the mandatory  
21 disclosures are the patent owner's obligation. It's not  
22 something that we should be debating, they just have to  
23 do it, and, if they don't do it, I presume there's some  
24 sanction for not revealing who your real real parties in  
25 interest are. So we look forward to those updated

1 disclosures.

2 JUDGE ANDERSON: Yeah, I don't think Mr. Fleming  
3 is saying anything to the contrary, in fact, he seems to  
4 be quite forthright in what he's saying about who's  
5 doing what to whom here.

6 Mr. Ayers, anything else to add?

7 MR. AYERS: Just one thing. We represent  
8 Silicon Labs in the federal circuit appeal in which  
9 CFCRSTE has already been substituted for Cresta, and we  
10 didn't oppose that. And we had asked counsel for  
11 previously Cresta, now CFCRSTE, to send us some  
12 documentation about the change in ownership to decide  
13 whether or not we were going to oppose that  
14 substitution.

15 They provided us an assignment of patent rights;  
16 unfortunately, it assigns the patents to an entity  
17 called CZ, as in zebra, not CF, as in Frank, and so, I  
18 guess, my only observation or comment is I would like to  
19 make sure that there's some clarity now because we have  
20 an assignment that is assigning these patents to yet a  
21 different entity than the one that's been substituted in  
22 the appeal. I assume there's some further assignment  
23 from CZ to CF, but, you know, it's confusing, to say the  
24 least.

25 But I trust Mr. Fleming to get it right and to

1 identify the proper owner, but I did want to point out  
2 that there's some confusion now, at least the record I'm  
3 seeing, about who is the actual patent owner.

4 JUDGE ANDERSON: Well, yeah, just make sure  
5 that, again, the whole chronology is set out,  
6 Mr. Fleming. This sounds like it's possibly just a  
7 typo. I don't know. Just make sure that --

8 MR. FLEMING: I have the assignment up on my  
9 computer here, and I'm looking at it very closely, and  
10 it has the correct letter in this assignment which is  
11 dated May 19th. I'm not sure if there was another  
12 assignment, or --

13 MR. AYERS: Yeah, I'll send you what I have,  
14 Mike.

15 MR. FLEMING: I'm unaware of this other  
16 assignment, and I can talk to Doris about it, but this  
17 is what she send to me [unintelligible].

18 MR. AYERS: Okay.

19 MR. SCHODDE: If I could have a copy of that, as  
20 well, because I also have a different assignment than,  
21 apparently, you have.

22 MR. AYERS: All right. I'll send this off to  
23 both of you, but I'm sure we'll be able to get this  
24 resolved, your Honor, but I did want to raise that  
25 point.



1 JUDGE ANDERSON: Okay. Well, I can't -- I won't  
2 say I can't -- I was going to say I can't emphasize  
3 enough, but I'll just emphasize, there are things I  
4 would emphasize more than this.

5 Work it out. It does not sound like this is  
6 anything that should interfere with our hearing dates  
7 subject to this motion to withdraw, and I'm going to  
8 assume that Mr. Fleming will persuade his general  
9 counsel that -- well, I mean, it's either a conflict or  
10 it isn't, and, you know, I don't want you to put, you  
11 know, undue pressure on your general counsel. If he  
12 feels like it's a conflict, then it's a conflict, and  
13 you guys are going to be in a situation that is going to  
14 have to be resolved.

15 The panel would like to get an email, one way or  
16 another, from you, Mr. Fleming, so that we can put this  
17 matter, hopefully, behind us as far as the conflict.

18 One other thing occurs to me. I assume you  
19 could get this done, Mr. Fleming, and I don't know that  
20 it has to be done before the hearing dates, but I would  
21 be more comfortable if it was. Can you get a power of  
22 attorney from the new patent owner before the hearing  
23 dates?

24 MR. FLEMING: Right. Thank you, your Honor, for  
25 reminding me. I will do that.

1 JUDGE ANDERSON: I think that takes care of it  
2 for the present. We will get an order out today, but  
3 you should all proceed on the basis of what this  
4 conference has been, and that is Mr. Fleming is going to  
5 clear up the conflict, hopefully, we'll assume he will,  
6 he will report back to the panel, one way or another,  
7 confirming or raising the issue.

8 If the issue is -- if there is an issue, we will  
9 have a call today to try to figure out what that's going  
10 to do with respect to the hearing dates and whether we  
11 would be in a position to allow withdrawal or not, but  
12 we're just going to wait to see what happens there.

13 You're going to get together, Mr. Fleming, a  
14 motion to join the new patent owner to the case. We  
15 will grant that motion, I have no doubt of it; but,  
16 first off, we're going to give you authority to file  
17 that motion. You're going to do that in cooperation  
18 with the various petitioners.

19 And I expect the lawyers, you're all excellent  
20 lawyers, I expect you to figure this out. It should not  
21 be controversial. And I'm going to -- you know, if  
22 there is some need for an opposition, I will put that in  
23 the order; but I'm, again, anticipating that, as good  
24 lawyers -- in fact, I think we have excellent lawyers on  
25 this matter, you guys will be able to resolve it.

1           Mr. Fleming will need to file powers of attorney  
2   on behalf of the new entity, and I think I'm going to  
3   talk to the panel and make sure there's nothing  
4   additional, but I think that's it.

5           Let me first just go through the parties first.

6           Mr. Fleming, anything from you?

7           MR. FLEMING: Nothing, your Honor.

8           JUDGE ANDERSON: Okay. Very good.

9           Mr. Schodde?

10          MR. SCHODDE: Nothing further from MaxLinear,  
11   your Honor. Thank you.

12          JUDGE ANDERSON: And Mr. Ayers?

13          MR. AYERS: No, your Honor.

14          JUDGE ANDERSON: I have feedback now from the  
15   panel. We have nothing additional at this time. With  
16   that, we will be adjourned waiting on pins and needles  
17   for Mr. Fleming's contact with his general counsel.

18          Having nothing else, we are adjourned.

19          Thank you all.

20          MR. FLEMING: Thank you, your Honor.

21          MR. SCHODDE: Thank you.

22                   (Whereupon, at 8:37 a.m., the hearing was  
23   adjourned.)

24                   ---000---

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1 STATE OF CALIFORNIA )

2 ) ss.

3 COUNTY OF LOS ANGELES )

4 I, Vickie Blair, CSR No. 8940, RPR-CRR, CLR, in  
5 and for the State of California, do hereby certify:

6 That said hearing was taken before me at the  
7 time and place therein set forth, and was taken down by  
8 me stenographically and thereafter transcribed via  
9 computer-aided transcription under my direction and is a  
10 true record of the testimony given;

11 I further certify I am neither counsel for, nor  
12 related to, any party to said action, nor interested in  
13 the outcome thereof;

14 IN WITNESS WHEREOF, I have hereto subscribed my  
15 name this 7th day of June, 2016.

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Vickie Blair, CSR No. 8940, RPR-CRR, CLR

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TELEPHONIC HEARING - 05/26/2016

1 UNITED STATES PATENT AND TRADEMARK OFFICES  
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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4

5 SILICON LABORATORIES, INC., )  
6 Petitioner, ) Case No.:  
7 vs. ) IPR2015-00615  
8 CRESTA TECHNOLOGY ) IRP2015-00626  
9 CORPORATION, )  
10 Patent Owner. )  
11 \_\_\_\_\_ )  
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TELEPHONIC HEARING BEFORE

15

JUDGE GREGG I. ANDERSON

16

THURSDAY, MAY 26, 2016

17

8:00 a.m.

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23 REPORTED BY:

24

Vickie Blair

25

CSR No. 8940, RPR-CRR, CLR

1 Telephonic hearing taken on Thursday,  
2 May 26, 2016, 8:00 a.m., before VICKIE BLAIR,  
3 CSR No. 8940, RPR-CRR, CLR.  
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1           Telephonic Hearing; Thursday, May 26, 2016

2                               8:00 a.m.

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5           JUDGE ANDERSON: Good morning. This is Judge  
6 Anderson. This is a conference call in four cases,  
7 IPR2015 592 and 596, MaxLinear vs. Cresta; IPR 615 and  
8 626, Silicon Labs vs. Cresta, involving various patents  
9 which I will not repeat the numbers of.

10           First of all, can we have entries of appearance  
11 on behalf of MaxLinear.

12           MR. SCHODDE: Good morning, Judge. This is Greg  
13 Schodde for MaxLinear. Also with me is Wayne Bradley  
14 and, on another line, Hank Spuhler.

15           JUDGE ANDERSON: Thank you, Mr. Schodde.

16           On the 592, 596 cases can we have Cresta's  
17 appearances, please.

18           MR. FLEMING: Yes, your Honor. This is Mike  
19 Flemming, and also on the line is Ben Haber, and I  
20 believe the IPR number for -- you've been saying 00596,  
21 I believe it's 00594.

22           JUDGE ANDERSON: Okay. Thank you. I'll take  
23 your word for it.

24           On the 615 and 626 cases, who's here for Silicon  
25 Labs, please?



1 MR. AYERS: Peter Ayers for Silicon Labs, your  
2 Honor.

3 JUDGE ANDERSON: And, Mr. Flemming and  
4 Mr. Haber, I assume you're also here on behalf of Cresta  
5 in that matter -- in those two matters, excuse me.

6 MR. FLEMING: No, your Honor. I have to correct  
7 you. We represent Doris Kaitlin, Chapter 7 trustee of  
8 bankruptcy of Cresta Technology account and special  
9 account.

10 JUDGE ANDERSON: Okay. Well, that's what we  
11 here to establish; right?

12 MR. FLEMING: No, your Honor. We're here to --

13 JUDGE ANDERSON: Say that again, please.

14 MR. FLEMING: We're here to establish who's the  
15 patent owner.

16 JUDGE ANDERSON: So who's representing the  
17 patent owner in the 615 and 626 cases?

18 MR. FLEMING: Well, your Honor, before we get  
19 into that, I want to also point out we have a court  
20 reporter on the line.

21 JUDGE ANDERSON: Okay.

22 MR. FLEMING: And let's see if we can have her  
23 identify herself.

24 THE REPORTER: My name is Vickie Blair.

25 JUDGE ANDERSON: All right, Ms. Blair. We had a

1 court reporter recently, so here's what I would like you  
2 to do: If you have any questions about what anybody's  
3 saying, hold them till we're done, and then you can work  
4 it out with the parties; okay?

5 THE REPORTER: Okay.

6 JUDGE ANDERSON: So everybody will speak up for  
7 the court reporter.

8 Now, where were we, Mr. Fleming? You raised  
9 this issue, so maybe I don't understand it. Why don't  
10 you explain it for me.

11 MR. FLEMING: Yes, your Honor. Again, we  
12 represent Doris Kaitlin Chapter 7 trustee of bankruptcy  
13 estate of Cresta Technology, and as special counsel, and  
14 we are under the understanding that the Doris Kaitlin  
15 has assigned the right of U.S. patent number 7,075,585  
16 and U.S. patent number 7,265,792 to an entity which I  
17 will spell out C-S E-R-E-S-C-E, LLC.

18 We were not aware of the assignment until being  
19 told Monday. I see that the assignment is dated last  
20 Thursday, May 19th. We were under the understanding  
21 that the assignment was going to go through another  
22 entity, EVE Credit Funding, so we had been working with  
23 this new patent owner, CFCRSTE, to see if we can't  
24 represent them. We are close to being able to resolve  
25 some issues around them retaining Irell & Manella as

1 counsel. I think we can resolve those issues probably  
2 later today, but as of right at this moment, we have not  
3 resolved those issues.

4 JUDGE ANDERSON: So, first of all, at least one  
5 question that I had, I believe you've at least partly  
6 responded to, and that is your -- so Mr. Fleming sent an  
7 email yesterday indicating that the ownership had  
8 changed. Let me get that, just to make sure I have the  
9 correct situation as you said it, that the patent  
10 ownership has changed, and that was what you advised us  
11 yesterday, Mr. Fleming, and it was only with respect to  
12 the IPR 615 and 626.

13 So with respect to the patents on the 592 and  
14 594 cases, I know Mr. Wimbiscus and -- well, Mr. Schodde  
15 specifically, did not get a response -- did not get the  
16 email.

17 So what about those patents? What's the status  
18 there?

19 MR. FLEMING: There's only two patents involved  
20 in all four IPOs.

21 JUDGE ANDERSON: Okay. That's great. So the  
22 updated ownership needs to happen with respect to all  
23 four IPRs; right?

24 MR. FLEMING: That's correct.

25 JUDGE ANDERSON: All right. And, apparently,

1 you have already filed, according to -- Judge Kauffman  
2 advises me that you have filed an updated mandatory  
3 notice with respect to the real party in interest in all  
4 four cases; is that correct?

5 MR. FLEMING: That's correct. On another --  
6 Doris Kaitlin, the real party in interest, as well as --

7 JUDGE ANDERSON: I'm sorry, as well as who?

8 MR. FLEMING: No. It was as well as EBT Credit  
9 Funding, another entity that we thought was going to be  
10 the owner of the current patent.

11 JUDGE ANDERSON: So what we need to do is update  
12 the cases to -- I mean, first of all, you've done the  
13 real party in interest, so that's great. The question  
14 is how do we add in the real party in interest into the  
15 case beyond the notice, mandatory notice, and your  
16 question to us was whether we just file a notice or a  
17 motion is required.

18 And we're going to ask you to file a motion,  
19 Mr. Fleming, to add the real parties in interest, as  
20 you've identified them already in the mandatory notice.  
21 I didn't see, and I did a little bit of looking, I don't  
22 think our rules have any specific procedure for doing  
23 this, but under our general conduct of the proceedings,  
24 authority, and looking at Federal Rule of Civil  
25 Procedure 19 as a guide, it seems like there is a party

1 now that has an interest in the subject matter of the  
2 proceeding, and we want to make sure that petitioner  
3 does not have the possibility of being subjected to  
4 inconsistent results here. So we want to add the real  
5 parties in interest to the case, and we want to do that  
6 by motion.

7 So what the panel would like you to do is go  
8 ahead and file a motion to add the real party and -- the  
9 new real party in interest to the case, both -- all four  
10 cases, and because we have such short time, but I don't  
11 believe the motion will take too much in the way of  
12 effort, I want you to do that by tomorrow. That's May  
13 whatever it is, 27th.

14 So the first question is: Can you do that,  
15 Mr. Fleming?

16 MR. FLEMING: Your Honor, can I get some  
17 clarification first? We would be filing a motion to  
18 give you notice of the new patent owner, as well as  
19 notice of the real party in interest, and I assume that  
20 means the caption of the case will be changed.

21 JUDGE ANDERSON: Yes, I think that's right.  
22 That's what I'm expecting, yes.

23 MR. FLEMING: Right. And then the next question  
24 is that I would assume you would want me to file with  
25 the motion an exhibit showing this assignment from Doris

1 Kaitlin to this new entity.

2 JUDGE ANDERSON: I would think that would be  
3 great if you could do it, and it sounds like you can.  
4 The more you establish what has happened since we got  
5 this case off track, the better.

6 I think what the panel would like to see is a  
7 chronology, really, of what's happened all along in  
8 terms of how this case went into bankruptcy, when that  
9 happened, and what happened since then. And I know  
10 Judge Kauffman had done a good job of documenting a lot  
11 of that, but having it all in one place so that we can  
12 get this final step done would be good.

13 Now, one other thing I see a question from one  
14 of my judges on the panel is we're assuming that the  
15 entire interest was assigned to this CS Trustee, LLC; is  
16 that right?

17 MR. FLEMING: Yes, your Honor, that's right,  
18 from the assignment paper.

19 JUDGE ANDERSON: Right. So we'll see that in  
20 the assignment that you're going to submit along with  
21 the motion; right?

22 MR. FLEMING: Right. One more detail, if I may.

23 There is an issue that we're trying to resolve  
24 as far as allowing our firm to represent this new entity  
25 because it is a subsidiary of another entity, and, of

1 course, when we file the motion, we'll also update that  
2 as a real party in interest.

3 But the reason I'm bringing this up is there is  
4 a possibility that the issue will not be resolved. I  
5 think that there's also a possibility, but I would like  
6 to request that if we can't resolve this this afternoon  
7 that we file a motion to withdraw, if permission from  
8 you to file a motion to withdraw effective tomorrow.

9 JUDGE ANDERSON: So this is -- just so I  
10 understand, this is because you may not be authorized to  
11 represent the parent of the -- of this --

12 MR. FLEMING: No, your Honor. It's an issue of  
13 obtaining a waiver of conflict in the issue.

14 JUDGE ANDERSON: But, ultimately, you wouldn't  
15 be able to represent the parent, is the bottom line.

16 MR. FLEMING: That's the bottom line.

17 JUDGE ANDERSON: All right.

18 MR. SCHODDE: Your Honor, this is Greg Schodde  
19 for MaxLinear. May I be heard briefly?

20 JUDGE ANDERSON: Yeah, no, I was getting to you,  
21 Mr. Schodde. Let me just make sure that we don't have  
22 anything more from Mr. Fleming, then I absolutely want  
23 to hear from you.

24 Mr. Fleming, anything more to make sure we're  
25 aware of here?

1 MR. FLEMING: No, your Honor. I think I've told  
2 you all the facts that I know, and I appreciate you  
3 scheduling this time so quickly. We were having a  
4 difficult time on the Rule 2 to figure out what would be  
5 the best way to do this.

6 JUDGE ANDERSON: Yeah, I -- and I appreciate  
7 that you, you know, we're all -- I want to make it clear  
8 to all the parties, this is not -- I think Judge  
9 Kauffman made a comment the other day, we're having to  
10 do some things on a much shorter timeline than we would  
11 like to, and I know it, and then we've got the holiday  
12 weekend coming up, so we're definitely of the mind that,  
13 you know, you all need to work together, we need to try  
14 to help you so we can keep this -- the hearings in place  
15 and move along with these proceedings.

16           So, thank you, appreciate the early notice,  
17   early as you could, I gather, on the email.

18           Now, Mr. Schodde, on behalf of MaxLinear, what  
19   do you have?

20 MR. SCHODDE: Thank you, your Honor. And I'll  
21 try to be brief because a wise person once told me about  
22 some situations like this, "don't get wet before it  
23 rains."

24 But, that said, I did hear Mr. Fleming say he  
25 might file a motion to withdraw based on a conflict with



1 the ownership of the CFCRSTE entity, who is now the  
2 owner of all the interests in the patents in these  
3 petitions.

4 My objection is that if that's the situation,  
5 it's entirely created by DBD Credit Funding, who is  
6 Mr. Fleming's current client by appointment through the  
7 trustee. They got the power to [unintelligible] direct  
8 litigation, and DBD Credit Funding, which is one of the  
9 fortress hedge fund entities, created CFCRSTE on  
10 May 18th. The next day, the trustee, at DBD Credit  
11 Funding's direction, executed the assignment to CFCRSTE,  
12 LLC. CFCRSTE, LLC, who's is the owner here, has already  
13 moved to substitute themselves as a party of the appeals  
14 of the earlier Silicon Labs IPRs on these patents.

15 In that appeal they got a statement under a  
16 Federal Rule 71 of who the owner of them is, that owner  
17 is another alphabet soup LLC created for litigation  
18 purposes in the hedge fund family of fortress called  
19 CFBDLZ, LLC, whatever that is, and they're the owner, I  
20 believe, that Mr. Fleming is talking about. But all of  
21 these entities are created by this fortress group, and  
22 to the extent that there is a problem here, fortress  
23 created it by making the assignment the way that they  
24 did.

25 And, for that reason, if we could go forward on

1 kind of a representation -- if Mr. Fleming has a problem  
2 with representation, we're going to oppose that. We  
3 think that there's no reason at all at this point to  
4 derail the hearing. We worked really hard trying to  
5 catch up and meet the board's deadline. But if there's  
6 a problem now because of this, it's a problem that DBD  
7 Credit and the trustee created, and they did it on  
8 purpose.

9 JUDGE ANDERSON: Well, yeah, there's --

10 MR. FLEMING: And --

11 MR. SCHODDE: And I circle back to, well, let's  
12 not get wet before it rains.

13 JUDGE ANDERSON: They're dealing with the  
14 bankruptcy, yeah, Mr. Fleming, what do you want to say?

15 MR. FLEMING: I just want to make clear on the  
16 record that we only have representation for Doris  
17 Kaitlin, although Doris may have been getting direction  
18 from DBD Credit Funding, and that's why [unintelligible]  
19 the real party in interest representing DBD in any way.  
20 I just want to make that clear.

21 And the issue is that new real party in interest  
22 that is the parent company of this new entity, which I  
23 won't be able to disclose, that's an issue of -- that  
24 arises as a conflict [unintelligible].

25 JUDGE ANDERSON: All right. Before we go any

1 further, Mr. Ayers, you have not been heard from yet.

2 Do you have anything to add to any of this?

3 MR. AYERS: No, your Honor, I guess other than I  
4 share Mr. Schodde's view that we would like this hearing  
5 to go forward as scheduled if at all possible, and we  
6 understand, you know, conflicts, but certainly would  
7 like to do what we can to make sure that that goes  
8 forward.

9 JUDGE ANDERSON: Well, I think everybody is of  
10 that thinking, I think even Mr. Fleming wants to do  
11 that, but we have to be aware that conflicts of interest  
12 are not to be taken lightly, and we -- I'm going to look  
13 at Mr. Schodde's quote that nobody's wet yet, so I think  
14 as far as the conflict thing we will -- I'll want to  
15 talk to the panel before we adjourn this call, but my  
16 inclination is that the we will give you authority to  
17 file a motion to withdraw, if necessary, that is not an  
18 indication that we will grant it, and we will -- that  
19 needs to be --

20 Are you going to know by the end of the day  
21 without question, Mr. Fleming, about this conflict  
22 situation?

23 MR. FLEMING: Your Honor, I was in conference  
24 with them literally all morning trying to work this out.  
25 I believe we finally have some sort of resolution, but

1 it came down to such a late -- I mean, literally 10  
2 minutes before this call, and I haven't had a chance to  
3 run this by our general counsel and make sure that our  
4 general counsel is in agreement, but it looked pretty  
5 good to me at that point.

6 So if, in fact, you know -- you want me to give  
7 you an email if, in fact, I do have problems with it  
8 later.

9 JUDGE ANDERSON: Yes, yes, I think that the  
10 minute you are aware that that you cannot or at least  
11 feel you cannot, represent the ultimate real party in  
12 interest, or a real party in interest, then, yes, give  
13 us an email, and we may need to have another call on  
14 very short notice today, so we'll just hope that that  
15 doesn't need to be done.

16 Now, back to the -- I'm going to call it  
17 joinder, substitution may be more appropriate, but we're  
18 going to call it joinder -- or I'm going to call it  
19 joinder.

20 What I think we should do here, and I'll get the  
21 feedback of the panel in a moment, is I'd like you,  
22 Mr. Fleming, to, by tomorrow, file a motion to join  
23 whatever real parties in interest there are to the  
24 current case and -- cases, and get back to something I  
25 don't think you answered: Are you going to be able to

1 do that with your attached assignment and whatever other  
2 sort of -- again, a chronology of what's happened, the  
3 bankruptcy, the resolution as far as the stay with  
4 respect to the these four cases, set all that out, and  
5 ask to have the real parties in interest, as you name  
6 them, joined into the case? Can you do all that by  
7 tomorrow?

8 MR. FLEMING: Yes, your Honor, as long as I have  
9 authorization to represent the new owner.

10 JUDGE ANDERSON: Okay. And I understand that's  
11 an issue.

12 Now, I don't want to have this be anything  
13 that's really contested. My recollection, though Judge  
14 Kauffman has done a great job of running this case with  
15 the assistance of Judge Boucher, more than I have been,  
16 my recollection is one of the petitioners, at least,  
17 maybe both of you, were concerned about the real party  
18 in interest question awhile ago.

19 So this motion needs to be, if at all possible,  
20 it needs to be filed as an unopposed motion, so I'm  
21 going to leave it to the parties to figure out how to  
22 make that happen. If you need to run a draft by the  
23 petitioners, then please do so, Mr. Fleming, but let's  
24 not get this to an opposed or contested situation.

25 I don't see any reason that it should be. I

1 think everybody's been aware of these circumstances and  
2 the real party in interest question for quite some time.

3 So first to you, Mr. Fleming, are you willing to  
4 do whatever you need to do to get the agreement of the  
5 petitioner, try to get --

6 MR. FLEMING: I will do my best, Judge.

7 JUDGE ANDERSON: I'm not saying you have to; I'm  
8 just --

9 Now, Mr. Schodde, are you going to be able to do  
10 that, work with Mr. Fleming, to get that accomplished by  
11 tomorrow?

12 MR. SCHODDE: Yes, your Honor. And always  
13 mindful of the parable that I mentioned at the  
14 beginning, I think at least to the extent that they want  
15 to change the nominal patent owner on the case for the  
16 purpose of the case caption, who is the patent owner,  
17 there's going to be no opposition to substituting  
18 CFCRSTE, LLC, for Cresta Technology.

19 JUDGE ANDERSON: What about the -- I have to say  
20 I'm confused what about the entity that owns CF --

21 MR. FLEMING: Your Honor.

22 JUDGE ANDERSON: Yeah, Mr. Fleming.

23 MR. FLEMING: Here's what I suggest to make this  
24 simple, is the motion, joint motion, would be just for  
25 the new patent owner, and then I will file a mandatory

1 motion for the real parties in interest that will be  
2 agreed based on they can choose to argue that it might  
3 be improper on the merits of the case, or in the oral  
4 hearing, but the real issue here is who is the patent  
5 owner, and [unintelligible] so if we could just limit it  
6 to a motion for joining in the new patent owner, and  
7 then also an understanding that I will file a mandatory  
8 notice stating who the real parties in interest are, I  
9 think that that would make that simpler.

10 JUDGE ANDERSON: I think that sounds appropriate  
11 and proper, and remembering that our only -- our  
12 jurisdiction primarily is over the patent, so we want  
13 the patent owner in the case, and that seems like an  
14 appropriate thing for the motion. The notice can add  
15 whatever additional real parties in interest -- the  
16 notice, excuse me, can add whatever additional real  
17 parties in interest there are.

18 Mr. Schodde first, then I'll get to Mr. Ayers.

19 MR. SCHODDE: Yes, your Honor, I think that  
20 sounds -- sounds appropriate, and the mandatory  
21 disclosures are the patent owner's obligation. It's not  
22 something that we should be debating, they just have to  
23 do it, and, if they don't do it, I presume there's some  
24 sanction for not revealing who your real real parties in  
25 interest are. So we look forward to those updated

1 disclosures.

2 JUDGE ANDERSON: Yeah, I don't think Mr. Fleming  
3 is saying anything to the contrary, in fact, he seems to  
4 be quite forthright in what he's saying about who's  
5 doing what to whom here.

6 Mr. Ayers, anything else to add?

7 MR. AYERS: Just one thing. We represent  
8 Silicon Labs in the federal circuit appeal in which  
9 CFCRSTE has already been substituted for Cresta, and we  
10 didn't oppose that. And we had asked counsel for  
11 previously Cresta, now CFCRSTE, to send us some  
12 documentation about the change in ownership to decide  
13 whether or not we were going to oppose that  
14 substitution.

15 They provided us an assignment of patent rights;  
16 unfortunately, it assigns the patents to an entity  
17 called CZ, as in zebra, not CF, as in Frank, and so, I  
18 guess, my only observation or comment is I would like to  
19 make sure that there's some clarity now because we have  
20 an assignment that is assigning these patents to yet a  
21 different entity than the one that's been substituted in  
22 the appeal. I assume there's some further assignment  
23 from CZ to CF, but, you know, it's confusing, to say the  
24 least.

25 But I trust Mr. Fleming to get it right and to



1 identify the proper owner, but I did want to point out  
2 that there's some confusion now, at least the record I'm  
3 seeing, about who is the actual patent owner.

4 JUDGE ANDERSON: Well, yeah, just make sure  
5 that, again, the whole chronology is set out,  
6 Mr. Fleming. This sounds like it's possibly just a  
7 typo. I don't know. Just make sure that --

8 MR. FLEMING: I have the assignment up on my  
9 computer here, and I'm looking at it very closely, and  
10 it has the correct letter in this assignment which is  
11 dated May 19th. I'm not sure if there was another  
12 assignment, or --

13 MR. AYERS: Yeah, I'll send you what I have,  
14 Mike.

15 MR. FLEMING: I'm unaware of this other  
16 assignment, and I can talk to Doris about it, but this  
17 is what she send to me [unintelligible].

18 MR. AYERS: Okay.

19 MR. SCHODDE: If I could have a copy of that, as  
20 well, because I also have a different assignment than,  
21 apparently, you have.

22 MR. AYERS: All right. I'll send this off to  
23 both of you, but I'm sure we'll be able to get this  
24 resolved, your Honor, but I did want to raise that  
25 point.

1 JUDGE ANDERSON: Okay. Well, I can't -- I won't  
2 say I can't -- I was going to say I can't emphasize  
3 enough, but I'll just emphasize, there are things I  
4 would emphasize more than this.

5 Work it out. It does not sound like this is  
6 anything that should interfere with our hearing dates  
7 subject to this motion to withdraw, and I'm going to  
8 assume that Mr. Fleming will persuade his general  
9 counsel that -- well, I mean, it's either a conflict or  
10 it isn't, and, you know, I don't want you to put, you  
11 know, undue pressure on your general counsel. If he  
12 feels like it's a conflict, then it's a conflict, and  
13 you guys are going to be in a situation that is going to  
14 have to be resolved.

15 The panel would like to get an email, one way or  
16 another, from you, Mr. Fleming, so that we can put this  
17 matter, hopefully, behind us as far as the conflict.

18 One other thing occurs to me. I assume you  
19 could get this done, Mr. Fleming, and I don't know that  
20 it has to be done before the hearing dates, but I would  
21 be more comfortable if it was. Can you get a power of  
22 attorney from the new patent owner before the hearing  
23 dates?

24 MR. FLEMING: Right. Thank you, your Honor, for  
25 reminding me. I will do that.

1 JUDGE ANDERSON: I think that takes care of it  
2 for the present. We will get an order out today, but  
3 you should all proceed on the basis of what this  
4 conference has been, and that is Mr. Fleming is going to  
5 clear up the conflict, hopefully, we'll assume he will,  
6 he will report back to the panel, one way or another,  
7 confirming or raising the issue.

8 If the issue is -- if there is an issue, we will  
9 have a call today to try to figure out what that's going  
10 to do with respect to the hearing dates and whether we  
11 would be in a position to allow withdrawal or not, but  
12 we're just going to wait to see what happens there.

13 You're going to get together, Mr. Fleming, a  
14 motion to join the new patent owner to the case. We  
15 will grant that motion, I have no doubt of it; but,  
16 first off, we're going to give you authority to file  
17 that motion. You're going to do that in cooperation  
18 with the various petitioners.

19 And I expect the lawyers, you're all excellent  
20 lawyers, I expect you to figure this out. It should not  
21 be controversial. And I'm going to -- you know, if  
22 there is some need for an opposition, I will put that in  
23 the order; but I'm, again, anticipating that, as good  
24 lawyers -- in fact, I think we have excellent lawyers on  
25 this matter, you guys will be able to resolve it.

1           Mr. Fleming will need to file powers of attorney  
2   on behalf of the new entity, and I think I'm going to  
3   talk to the panel and make sure there's nothing  
4   additional, but I think that's it.

5           Let me first just go through the parties first.

6           Mr. Fleming, anything from you?

7           MR. FLEMING: Nothing, your Honor.

8           JUDGE ANDERSON: Okay. Very good.

9           Mr. Schodde?

10          MR. SCHODDE: Nothing further from MaxLinear,  
11   your Honor. Thank you.

12          JUDGE ANDERSON: And Mr. Ayers?

13          MR. AYERS: No, your Honor.

14          JUDGE ANDERSON: I have feedback now from the  
15   panel. We have nothing additional at this time. With  
16   that, we will be adjourned waiting on pins and needles  
17   for Mr. Fleming's contact with his general counsel.

18          Having nothing else, we are adjourned.

19          Thank you all.

20          MR. FLEMING: Thank you, your Honor.

21          MR. SCHODDE: Thank you.

22                   (Whereupon, at 8:37 a.m., the hearing was  
23   adjourned.)

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1 STATE OF CALIFORNIA )

2 ) ss.

3 COUNTY OF LOS ANGELES )

4 I, Vickie Blair, CSR No. 8940, RPR-CRR, CLR, in  
5 and for the State of California, do hereby certify:

6 That said hearing was taken before me at the  
7 time and place therein set forth, and was taken down by  
8 me stenographically and thereafter transcribed via  
9 computer-aided transcription under my direction and is a  
10 true record of the testimony given;

11 I further certify I am neither counsel for, nor  
12 related to, any party to said action, nor interested in  
13 the outcome thereof;

14 IN WITNESS WHEREOF, I have hereto subscribed my  
15 name this 7th day of June, 2016.

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Vickie Blair, CSR No. 8940, RPR-CRR, CLR

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