

January 3, 2020

The Honorable Phyllis J. Hamilton
Chief District Judge Northern California
1301 Clay Street
Oakland CA 94612

RE: Transcript of Proceeding Before the Honorable Lucy H. Koh (November 14, 2018)

Dear Judge Hamilton;

"The day a judge stops being impartial and starts to do things to please the home crowd, whatever your home crowd is, that's the day that judge should step down from office."

Attributed to Chief Justice William Rehnquist

Recently I read the transcript dated November 14, 2018, before Judge Koh. This transcript is in reference to a patent infringement suit, brought about by the plaintiff Voip-Pal Inc vs. multiple defendants (Apple, Verizon, AT&T, Twitter and most recently Amazon).

As I read the document I became more and more distressed. Here are some of the most disturbing comments made by the court:

Page 5 *"Then these cases should go to Judge Tigar. Why are they here?"*

It appears Judge Koh does not want the case.

Page 7 *"I mean, believe me, I would be so happy to transfer these (the cases) to any of my colleagues..."*

"But unfortunately, I think I'm stuck..."

"Stuck"? Is this approved professional conduct for a Federal District Judge? She is making it very clear she does not want these cases.

Page 20 *"Now, I wouldn't mind transferring this case to another venue...Are we sure that venue here is proper under TC Heartland and Cray?" (All attorneys confirm it is) "Ok. All right. Well it was worth a try".*

Again, appears obvious she does not want these cases.

Page 29 *"That's why I don't like patent cases."*

I don't even know what to say to this. Is it commonplace for Federal Judges to

announce their affinity for certain types of cases? It is too bad she does not like patent cases but this is what it is...don't plaintiff and defendant still deserve impartiality?

Page 32 *" Well, I'm not going to do a 101 motion on this many claims...I refuse."*

Instead Judge Koh instructs plaintiffs attorney,

Page 33 *" It's going to be on 20 claims, **that's it**, across both patents. So take your best shot and pick your best ones."*

When Voip-Pal's attorney wanted some time to reduce the number of claims from 36 to 20, Judge Koh refused and set a schedule on the spot. Is that commonplace for a Judge to limit the number of complaints because it is too much work?

I have intentionally saved what I consider the most egregious quote for last...

In referencing Voip-Pal's growing suite of patents and the USPTO's granting of new continuations for existing Voip-Pal patents Judge Koh had this to say,

Page 10 *" I don't want this (the cases) to keep **growing like a cancer**, though, because I am sure they (Voip-Pal) are growing the family as we speak, and are we just going to keep getting more continuations and then are you going to assert those four continuations against the other defendants here?"*

What exactly is the "cancer" Judge Koh is referring too? Is it the hard work of the engineers for Voip-Pal who continue to improve the patents, or is it the hard work of the USPTO examiners who continue to agree that new patents should be issued or continuations granted. Perhaps the "cancer" is the plaintiff's belief that the judicial system of the United States will offer protection when patents are infringed upon.

I am a shareholder of Voip-Pal and because of this I have a strong bias. What needs to be focused on here is I am not just talking about a case or cases. This is dealing with peoples lives. Thousands of people have invested in Voip-Pal. I have invested my retirement and felt completely justified when the company finely received their patents, btw it was a 7 year wait from application to granting. Only then did we all find out about new laws regarding patents that had been enacted and now the company had to deal with the PTAB and inter partes reviews. Voip-Pal prevailed there, now finally we all would have our day in court, only to then find out about Alice 101 motions.

I was not too concerned about any Alice 101 motions being approved. All of Voip-Pal's patents were granted by the USPTO and all challenges at the PTAB validated the patents as well. The company had their own team of experts which reads as a who's who in the patent world agreeing to the validity of the patents.

Then Judge Koh rules the patents invalid. It is hard to comprehend, that all of the experts and patent examiners and PTAB Judges whose entire career is based on knowledge of patents

were wrong. I would find her decision much more palatable were it not for the points I have already made, and her not liking patent cases.

My point in writing this to you is not completely clear to me being as I am neither a lawyer or legal scholar. I am not sure what if any remedies are available. I know that Voip-Pal has filed an appeal of Judge Koh's ruling which I hope they prevail with. I guess my point is since you are the Chief District Judge I would urge you to make sure, each of the Judges under your charge be as impartial as possible. They are dealing with peoples lives, not just types of cases which they may or may not like.

Sincerely,

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