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14 Oplus Technologies, Ltd.

15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

17 OPLUS TECHNOLOGIES, LTD.,

18 Plaintiff,

19 v.

20 SEARS HOLDINGS CORPORATION
and VIZIO, INC.,

21 Defendants.
22

Case No. CV12-5707 MRP (E)

*Assigned to the Honorable Mariana R.
Pfaelzer*

**DECLARATION OF RAYMOND
P. NIRO**

1 I, Raymond P. Niro, declare and state as follows:

2 1. As the head of our law firm, I accepted with concern the Court's
3 comments (made at the December 9 hearing) about the conduct of one of our
4 young lawyers, Gabriel Opatken. I promised the Court, then, that I would
5 promptly investigate the matter and, if necessary, take remedial action and I have
6 done so.

7 2. As I explained at the hearing on December 9, Mr. Opatken is a young
8 lawyer having joined our firm after graduating from Vanderbilt University Law
9 School in 2010. He was admitted to the Illinois State Bar on November 4, 2010,
10 the Northern District of Illinois on January 3, 2011 and the Federal Circuit on
11 March 20, 2012.

12 3. I agree that during his appearance before the Court on June 7, Mr.
13 Opatken's conduct could be understood as being arrogant and disrespectful to the
14 Court. He suggested at different points in the hearing that he would not ordinarily
15 call opposing counsel to ask permission to obtain documents subject to a protective
16 order and that a letter was sufficient to amend infringement contentions. Mr.
17 Opatken was told by the Court not to be "quite as aggressive as you have been in
18 addressing the Court" (Transcript of Proceedings, June 7, 2013 at 51).

19 4. This is not the way we expect lawyers from our firm to address a
20 federal judge and we again apologize on behalf of both Mr. Opatken and our law
21 firm.

22 5. What I had not realized until I talked to Mr. Opatken upon my return
23 to Chicago was that, at the time of the June 7 hearing, Mr. Opatken's mother was
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1 critically ill and, in fact, died four days later, on June 11. This by no means
2 excuses or justifies Mr. Opatken's conduct but, in some small way, may help
3 explain it. Unfortunately, other lawyers in our firm put him in a position to appear
4 before the Court at a time of personal crisis for him, which was our fault, not his.
5 He simply should not have been in California appearing in this case on June 7 and
6 I have addressed that matter, as well, with the more senior lawyers who were
7 working on the case who sent Mr. Opatken to California to appear before the
8 Court.

9 6. To reiterate, I personally have met with Mr. Opatken and have
10 addressed with him the concerns the Court expressed at the December 9 hearing. I
11 have gone through his responses to the Court's questions on June 7, line-by-line
12 and point-by point. Further, Mr. Opatken's future appearances before any court in
13 any proceeding (and his written communications as well) will now be closely
14 monitored for the next year until we are certain his conduct will consistently
15 measure up to the high standards we expect of all our lawyers.

16 7. I appreciate the Court calling this matter to my attention and again
17 extend to the Court my sincerest apologies.

18 I declare under penalty of perjury under the laws of the United States that
19 the foregoing is true and correct to the best of my knowledge and belief.

20 Executed this 16th day of December 2013 in Chicago, Illinois.

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22 Raymond P. Niro

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 16, 2013 the foregoing

DECLARATION OF RAYMOND P. NIRO

was filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following counsel of record:

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I certify that all parties in this case are represented by counsel who are CM/ECF participants.

/s/ Raymond P. Niro
Attorneys for Oplus Technologies, Ltd.