

IN THE SUPREME COURT OF THE STATE OF NEVADA

PARAMETRIC SOUND CORPORATION, VTB HOLDINGS, INC., KENNETH POTASHNER; ELWOOD NORRIS; SETH PUTTERMAN; ROBERT KAPLAN; ANDREW WOLFE; and JAMES HONORE

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT COURT, in and for the County of Clark, State of Nevada, and THE HONORABLE ELIZABETH GONZALEZ, District Judge

Respondents,

And

VITTIE RAKAUSKAS, individually and on behalf of all others similarly situated, and Intervening Plaintiffs RAYMOND BOYTIM and GRANT OAKES,

Real parties in interest.

Electronically Filed
May 26, 2017 04:16 p.m.
Case No. 66689
Elizabeth A. Brown
Clerk of Supreme Court

District Court No. A-13-
686890-B
Dept. No. XI

**PETITIONERS' RESPONSE TO REAL PARTIES IN INTEREST'S
NOTICE OF SUPPLEMENTAL AUTHORITY**

RICHARD C. GORDON, ESQ.
Nevada Bar No. 9036
KELLY H. DOVE, ESQ.
Nevada Bar No. 10569
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite
1100
Las Vegas, Nevada 89169
Telephone: (702) 784-5200
E-mail: rgordon@swlaw.com
kdove@swlaw.com

JOSHUA D. N. HESS, ESQ. (*Admitted Pro
Hac Vice*)
DECHERT LLP
One Bush Street, Suite 1600
San Francisco, CA 94104
Telephone: (415) 262-4583
E-mail: Joshua.Hess@dechert.com

Attorneys for Petitioners Turtle Beach Corporation and VTB Holdings Inc.

J. STEPHEN PEEK, ESQ.
Nevada Bar No. 1758
ROBERT J. CASSITY, ESQ.
Nevada Bar No. 9779
HOLLAND & HART L.L.P.
955 Hillwood Drive, 2d Floor
Las Vegas, Nevada 89134
Telephone: (702) 669-4600
E-mail: speek@hollandhart.com
bcassity@hollandhart.com

JOHN P. STIGI III, ESQ. (*Admitted Pro Hac Vice*)
SHEPPARD, MULLIN, RICHTER, & HAMPTON
LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067
Telephone: (310) 228-3700
E-mail: jstigi@sheppardmullin.com

*Attorneys for Petitioners Kenneth Potashner, Elwood Norris, Seth Putterman,
Robert Kaplan, Andrew Wolfe, James Honoré*

Pursuant to NRAP 31(e), Petitioners submit this response to Real Parties In Interest's ("Plaintiffs") May 23, 2017, citation of *Fuchs v. Wren Holdings, LLC*, 129 A.3d 882 (Table), 2015 WL 8528870 (Del. 2015) as supplemental authority. Plaintiffs cite this one-paragraph, unpublished opinion because it affirms a Delaware Chancery Court decision that Plaintiffs cited in their briefing, *Nine Sys. Corp. S'holders Litig.*, No. 3940-VCN, 2014 WL 4383127 (Del. Ch. Sept. 4, 2014) ("*Nine Sys*"). Petitioners respectfully refer this Court to Petitioners' Reply Brief at 24-25 and Petitioners' Supplemental Brief at 27-30, where Petitioners directly address the same language from *Nine Sys.* that Plaintiffs now submit for the third time. As noted previously, *Nine Sys.* was decided in the context of a claimed improper expropriation, which is not an allegation at issue here. Moreover, *Fuchs* does not "affirm" the purported "rule" stated in Plaintiffs' notice or endorse *Carsanaro v. Bloodhound Techs., Inc.*, 65 A.3d 618 (Del. Ch. 2013). The portion of *Nine Sys.* quoted in Plaintiffs' Notice was an "alternative" holding (*Nine Sys.*, 2014 WL 4383127 at *32), which the Delaware Supreme Court's summary affirmance does nothing to embrace.

SNELL & WILMER L.L.P.

By: /s/ Richard C. Gordon

RICHARD C. GORDON, ESQ.

KELLY H. DOVE, ESQ.

3883 Howard Hughes Parkway

Suite 1100

Las Vegas, Nevada 89169

JOSHUA D. N. HESS, ESQ.

(Pro Hac Vice)

DECHERT LLP

One Bush Street, Suite 1600

San Francisco, CA 94104

*Attorneys for Petitioners Turtle Beach
Corporation and VTB Holdings Inc.*

J. STEPHEN PEEK, ESQ.

ROBERT J. CASSITY, ESQ.

HOLLAND & HART L.L.P.

955 Hillwood Drive, 2d Floor

Las Vegas, Nevada 89134

JOHN P. STIGI III, ESQ.

(Pro Hac Vice)

SHEPPARD, MULLIN, RICHTER, &

HAMPTON LLP

1901 Avenue of the Stars, Suite 1600

Los Angeles, CA 90067

*Attorneys for Petitioners Kenneth
Potashner, Elwood Norris, Seth Putterman,
Robert Kaplan, Andrew Wolfe, James
Honoré*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On May 26, 2017, I caused to be served a true and correct copy of the foregoing **PETITIONERS' RESPONSE TO REAL PARTIES IN INTEREST'S NOTICE OF SUPPLEMENTAL AUTHORITY** by the method indicated:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY EMAIL:** by emailing a PDF of the document(s) listed above to the email addresses of the individual(s) listed below:
- ☒ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below:

Honorable Elizabeth Gonzalez
Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

- ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case and the following list:

/s/ Lyndsey Luxford

An Employee of Snell & Wilmer L.L.P.