

What the Shell? LLCs Improperly Used in Attempt to Hide Patent Monetization Firms and Shield Them from Liability

[Nimitz Techs. LLC v. CNET Media, Inc., No. CV 21-1247, 2023 WL 8187441 \(D. Del. Nov. 27, 2023\)](#)

Authors: Reid Huefner & Suet Lee | Editor: Jason Keener | December 1, 2023

On November 27, 2023, U.S. District Judge Connolly ruled that patent monetization firm and de facto patent owner, IP Edge, and its affiliated business Mavexar, engaged in a fraudulent strategy of (1) conveying various computer and cellphone patents, and de minimis rights therein, to third-party shell LLCs, and then (2) having attorneys (allegedly) representing those LLCs—but who actually answered to IP Edge—file numerous inaccurate patent assignments with the PTO and file lawsuits to extract settlements from accused companies pursuant to IP Edge’s—not their shell LLC clients’—direction.

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The first shell LLC, Nimitz Technologies (“Nimitz”), filed eleven cases in the District of Delaware. Nimitz’s sole owner was unable to describe the asserted ’328 patent or how it came into Nimitz’s possession from France Brevets, a French “sovereign state fund” that retained a partial interest in the patent via an assignment agreement it entered into with yet another IP Edge affiliate, Burley Licensing LLC (“Burley”). In the France Brevets/Burley Patent Assignment, France Brevets retained certain rights and financial interests in revenues from IP Edge’s enforcement efforts, and could reclaim the patents if the monetizing efforts did not reach certain levels. Judge Connolly observed that IP Edge had an interest in, and influence over, Nimitz. For example, IP Edge’s director identified targets, drafted claim charts, and instructed Nimitz’s lawyer to file the infringement suits. Additionally, the Nimitz Patent Assignment, which was filed at the PTO using an IP Edge email account, incorporated the Frances Brevets/Burley Patent Assignment, but also included a “Consulting Services” agreement between Nimitz and Mavexar, for non-legal services like patent monetization assistance.

Two other shell LLCs—Mellaconic and Lamplight—also executed Patent Assignment Agreements that similarly resulted in the LLCs bearing all liability but only receiving a maximum of about 5% of any recovery (the remaining over 95% being shared between France Brevets, IP Edge and its affiliates, and the LLCs’ lawyers). This transfer of liability, through which IP Edge and Mavexar attempted to eliminate their exposure to the risks associated with their aggressive (and potentially frivolous) lawsuits, presented a clear conflict of interest between the shell LLCs and IP Edge—conflicts that the LLCs’ lawyers entirely ignored and failed to point out to their shell LLC “clients.” Once the shell LLCs were created, and just before the patents were asserted, IP Edge directed the filing of fraudulent assignments with the PTO that spuriously indicated that the shell LLCs possessed all the rights in the assigned patents. In truth, IP Edge’s involvement was so complete that it directed the shell LLCs’ attorneys to enforce the patents and enter into settlements—purported on behalf of their “client” LLCs—without those attorneys having even met the sole shareholder of their shell LLC clients.

Judge Connolly found that IP Edge’s attorneys, Mavexar’s in-house attorneys, and the LLCs’ outside counsel violated the ABA’s Model Rules of Professional Conduct in their representation of their clients and referred them to the Texas Supreme Court’s Unauthorized Practice of Law Committee. He also referred these matters to the U.S. Department of Justice and the USPTO for further inquiry. This case is a stark reminder to all attorneys of our ethical obligations and the importance of always seeking to abide by not only the letter, but also the spirit, of our ethical duties to ensure that we always prioritize our clients’ needs over our own interests.