

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION**

**Date:** [Insert Date]

**To:** [Client Name]

**Attn:** [Contact Person]

**Address:** [Client Address]

**Re:** Freedom to Operate and Invalidity Opinion regarding [Product Name/Project Code] and U.S. Patent No. [Patent Number]

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## **1. Introduction**

You have requested our legal opinion regarding whether your proposed product, [Product Description], infringes any valid claims of U.S. Patent No. [Patent Number] (the "[Short Name] Patent"). You have also requested an analysis regarding the validity of the [Short Name] Patent.

## **2. Executive Summary**

[Insert brief summary of conclusion, e.g., It is our opinion that the proposed product does not infringe any valid claim of the Subject Patent, and/or that the Subject Patent is likely invalid based on the prior art identified.]

## **3. Materials Reviewed**

In rendering this opinion, we have reviewed the following:

- U.S. Patent No. [Patent Number] and its prosecution history.
- Technical specifications of [Client Product] provided on [Date].
- Prior art documents: [List Key Patents/Articles].
- [Other relevant documents].

## **4. Claim Construction**

We have construed the following key terms of the Subject Patent based on the intrinsic record:

- **Term 1:** "[Term]" is construed to mean [Definition].
- **Term 2:** "[Term]" is construed to mean [Definition].

## **5. Freedom to Operate Analysis (Non-Infringement)**

To establish literal infringement, every limitation of a claim must be found in the accused product. We have compared [Client Product] to the independent claims [Claim Numbers]:

[Insert detailed element-by-element comparison. Identify which specific limitation is missing from the product.]

Based on this analysis, [Client Product] does not literally infringe the claims. Furthermore, under the Doctrine of Equivalents, [Insert analysis].

## **6. Invalidity Analysis**

It is our opinion that claims [Claim Numbers] of the Subject Patent are invalid under:

- **35 U.S.C. § 102 (Anticipation):** Claim [Number] is anticipated by [Prior Art Reference] because it discloses every element...
- **35 U.S.C. § 103 (Obviousness):** Claim [Number] would have been obvious to a Person Having Ordinary Skill in the Art (PHOSITA) in view of [Reference A] and [Reference B] because...

## **7. Conclusion**

Based on the foregoing, we conclude that [Client Product] does not infringe any valid and enforceable claim of the [Short Name] Patent. This opinion is based on the law and facts as they exist on the date of this letter.

Sincerely,

[Attorney Name]

[Law Firm Name]