

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**KOHN & ASSOCIATES PLLC,  
Petitioner**

v.

**COMPASS PATHWAYS LIMITED,  
Patent Owner**

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Case No. PGR2020-00030

**U.S. PATENT NO. 10,519,175**

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**PATENT OWNER'S SUR-REPLY TO PETITIONER'S REPLY**

## TABLE OF AUTHORITIES

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### Cases

<i>Applications in Internet Time, LLC v. RPX Corp.</i> , 897 F.3d 1336 (Fed. Cir. 2018) .....	4, 5, 7
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### LIST OF EXHIBITS

<b>Exhibit No.</b>	<b>Description of Document</b>
<b>2015</b>	Businesswire.com, "FDA grants Breakthrough Therapy Designation to Usona Institute's psilocybin program for major depressive disorder" (Nov. 22, 2019)
<b>2016</b>	PR Newswire, "COMPASS Pathways Receives FDA Breakthrough Therapy Designation for Psilocybin Therapy for Treatment-resistant Depression", (Oct. 23, 2018)
<b>2017</b>	ClinicalTrials.gov, "A Study of Psilocybin for Major Depressive Disorder (MDD)" (March 7, 2019)
<b>2018</b>	Jordan Slosower: Psychedelics in the treatment of mood and substance use disorders (May 6, 2020)
<b>2019</b>	Third party observations in United Kingdom Patent Application GB1716505.1 (Jan. 24, 2020)
<b>2020</b>	Third party observations in United Kingdom Patent Application GB1810588.2 (Jan. 23, 2020)
<b>2021</b>	Biography – Carey Turnbull

**I. Petitioner Should Not Be Permitted to Replace the RPIs to the Petition**

In its Reply, Petitioner (the “Kohn Law Firm”) admitted it was merely a “placeholder” and *not* a real party in interest (RPI). (Reply at 2.) Petitioner knew it was not an RPI when filing the Petition and has now admitted that at least three other parties—Freedom to Operate, Inc. (“FTO”), B. More Incorporated (“B. More”), and Carey Turnbull (“Turnbull”)—were unnamed RPIs. (Reply at 1.)

Petitioner nevertheless seeks to correct its statutory failures by asking the Board for permission to completely change its identification of the Petition’s RPI. Under the present circumstances—where Petitioner admitted the Petition was filed at the behest of unnamed RPIs and the scope of admitted RPIs would have remained concealed but for the Board’s demand for additional information from Petitioner—the Board should not amend the Petition for at least the following reasons.

First, Petitioner fails to explain why the admitted RPIs needed to hide behind the alleged “placeholder” firm. Despite stating that the Petition was filed “at the direction of Mr. Turnbull, acting as a director of B. More,” Petitioner argues that it was justified in naming the Kohn Law Firm as the *sole* RPI: (1) “to begin the process”; (2) “to put Compass on notice”; and (3) for the alleged “public interest.” (Reply at 6.) Petitioner, however, provides no authority that a Petition can be filed by a “placeholder” firm in lieu of the actual *known* RPI. Nor can it. Petitioner’s violation of the clear statutory requirement was not merely a mistaken oversight, but

evinces a tactical decision sought to conceal the actual RPIs to the Petition.

Second, Petitioner's failure to instigate a response to Patent Owner's RPI challenges—only doing so in response to the Board's *sua sponte* order requiring it to do so—belies Petitioner's assertion that "Mr. Turnbull and FTO did not try to hide their involvement with the Petition." (Reply at 6.) Petitioner has been less than forthcoming on the identification of RPI to Patent Owner, having withheld B. More and Turnbull's involvement in response to Patent Owner's emails back in March.

Third, Petitioner never explains why FTO was formed *the day after* Patent Owner raised the RPI issue via email. Nor has Petitioner dispelled the reasonable conclusion that FTO was created as a means to conceal the true identity of the RPIs, including B. More, Turnbull, and other unnamed entities related to Turnbull, as it was readily clear the Kohn Law Firm was not the RPI to the Petition. Even now, Petitioner provides no evidence to support the *ex post facto* attorney representations regarding the alleged rationale of B. More and Turnbull in the creation of FTO.

Since none of Petitioner's alleged excuses justify why B. More and Turnbull were not identified as the RPIs when the Petition was filed, why FTO was formed the day after Patent Owner challenged RPI, and why B. More and Turnbull were not identified to Patent Owner as RPI, Petitioner's attempt to paint its knowing concealment of the RPI to this proceeding as a "no harm, no foul" situation using a "placeholder" law firm should not be nakedly accepted or endorsed by the Board.

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