

April 15, 2020

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Petition for Rulemaking re: Use of Electronic Signatures Under Regulation S-T

Dear Ms. Countryman:

Each of the undersigned Silicon Valley-based law firms (the “Petitioners”) has an active practice representing registrants that are regulated by the U.S. Securities and Exchange Commission (the “Commission”). We respectfully submit this petition for rulemaking pursuant to Rule 192(a) of the Rules of Practice of the Commission.

On behalf of the hundreds of registrants and potential registrants we collectively represent, Petitioners hereby ask the Commission to amend Rules 11 and 302 of Regulation S-T, as well as any other rules or forms necessary to permit such amendments to have their desired effect, at its earliest convenience to permit electronic signatures in addition to manual signatures. An example of such amendments is provided after the signature pages below (the core of the definition of electronic signature therein is based on the E-Sign Act, 15 U.S. Code § 7001 et seq).

We acknowledge the Staff Statement: Regarding Rule 302(b) of Regulation S-T in Light of COVID-19 Concerns (March 24, 2020) (the “Staff Statement”) and appreciate the added flexibility it provides regarding manual signatures in the current extraordinary environment. We believe, however, and many of our clients have also informed us, that obtaining and retaining manual signatures in compliance with the Staff Statement remains a significant logistical burden. We and many of our clients believe the Staff Statement could be of greater effectiveness to registrants, with no compromise to the integrity of the document signing process, if registrants were permitted to use existing, proven electronic signature processes with respect to filing documents with the Commission.

Registrants routinely use electronic signatures to obtain actions by written consent from their boards of directors, see Del Gen. Corp. Law Section 141(f), and can use electronic signatures to execute, among other things, multi-billion dollar merger agreements, see Del Gen. Corp. Law Section 116. In the context of registered offerings, registrants are using electronic signatures for underwriting agreements, lock-up agreements and even legal opinions. Every day, registrants use electronic signatures to enter into commercial agreements with customers, suppliers and vendors, as well as contracts and equity compensation agreements with consultants, employees, and directors. Our clients have indicated to us that the current COVID-19 situation has only accelerated these trends and significantly increased the difficulties associated with obtaining manual “wet” signatures. Moreover, we believe the massive transition to remote and disparate work environments during these unprecedented times will increase the business trends we were already witnessing and change the way commerce is conducted towards more virtual interactions, including executing transactions and agreements.

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
April 15, 2020
Page 2

Improvements in electronic signature software technology make it possible to confirm (with at least equal confidence to the collection of manual signatures) who has signed a document and when it was signed (and, indeed, far better accuracy as to the timing of execution), and make recordkeeping and storage of such signatures seamless and secure.

Numerous state and federal courts have held that the electronic signature processes of the type proposed below are effective in validating electronic signatures. *See, e.g., Newton v. Am. Debt Servs.*, 854 F.Supp.2d 712 (N.D. Cal. 2012); *Hill Phoenix, Inc. v. Classic Refrig. SoCal, Inc.*, 2020 WL 1244354, Case No. 19-cv-00695 (C.D. Cal. Mar. 15, 2020); *Mitchell v. Cambridge Franchise Holdings, LLC*, 2020 WL 234659, Case No. 19-CV-493-CHB (W.D. Ky. Jan. 15, 2020); *IO Moonwalkers, Inc. v. Banc of Am. Merch. Servs., LLC*, 814 S.E.2d 583 (N.C. Ct. App. 2018); *Stowell v. Cantor Fitzgerald & Co.*, No. A-3010-18T3, 2020 WL 949043 (N.J. Super. Ct. App. Div. Feb. 27, 2020).

Permitting electronic signatures in addition to manual signatures under Rule 302 would permit registrants who routinely obtain electronic signatures from members of their board of directors and executive officers in many other contexts to obtain their signatures for documents filed with the Commission. We believe all registrants would benefit from the ability to obtain electronic signatures, from larger companies with operations and personnel in multiple locations, as well as smaller companies with more limited resources available that find it more of a challenge to have filed documents manually signed remotely and promptly collected.


We would be happy to discuss our position with the Commission or its staff, to answer any questions you may have and to provide any additional information you may need to act upon our petition.

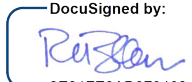
Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
April 15, 2020
Page 3

Please feel free to contact the undersigned to discuss any of these matters in more detail.


Sincerely,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

DocuSigned by:

4DD65B949D46415...
Steven E. Bochner
sbochner@wsgr.com
650-354-4110

DocuSigned by:

3E31FE3AD979462...
Richard C. Blake
rblake@wsgr.com
650-565-3997

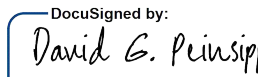
FENWICK & WEST LLP

DocuSigned by:

9AC64F65051C42B...
David A. Bell
dbell@fenwick.com
650-335-7130

DocuSigned by:

DB50F834A7934A7...
James D. Evans
jevans@fenwick.com
206-389-4559

COOLEY LLP

DocuSigned by:

C13CFA46B7BD4AB...
David G. Peinsipp
dpeinsipp@cooley.com
415-693-2177

DocuSigned by:

E55017DB4A954EB...
Charles S. Kim
ckim@cooley.com
858-550-6049

cc: William H. Hinman
Shelley E. Parratt

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
April 15, 2020
Page 4

Proposed Amendment to Regulation S-T (proposed changes in track changes)

Rule 11

Electronically sign. The term *electronically sign* means to use an electronic symbol or process attached to or logically associated with a document adopted by the signatory with the intent to sign such document. An electronic filer with a document that has been electronically signed shall maintain or utilize a system to reasonably authenticate that the person electronically signing is the actual signatory, using at least one of the following for the purposes of such authentication system:

(i) a login password/access code;

(ii) confirmation in a reasonable manner through an e-mail address known to the filer to be previously provided by or associated with the signatory;

(iii) a corporate data system login or single-sign on (SSO) system;

(iv) a text or short message service (SMS) system;

(v) confirmation in a reasonable manner via a phone number known to the filer to be previously provided by or associated with the signatory;

(vi) recordation of governmental identification in association with the electronic signature;

(vii) responses to previously established security questions, or a similar knowledge-based system;

(viii) user authentication through social media that requires user login or other reasonable third-party login; or

(ix) IP/MAC address or other similar technical means known to the filer to be previously provided by or associated with the signatory.

Such a registrant must also maintain or utilize a technically based audit trail system that substantiates the authentication method used and the date and time of signature.

Rule 302(b)

Each signatory to an electronic filing (including, without limitation, each signatory to the certifications required by §§ 240.13a-14, 240.15d-14 and 270.30a-2 of this chapter) shall manually sign **or electronically sign** a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic filing. Such document shall be executed before or at the time the electronic filing is made and shall be retained, **in either physical or electronic means**, by the filer for a period of five years. Upon request, an electronic filer shall furnish to the Commission or its staff a copy of any or all documents retained pursuant to this section.