

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,

Petitioner,

v.

OZMO LICENSING LLC,

Patent Owner

Case IPR2023-00193
U.S. Patent No. 9,264,991

**PATENT OWNER'S MOTION TO SUBMIT SUPPLEMENTAL
INFORMATION PURSUANT TO 37 C.F.R. § 42.123**

Table of Contents

I.	INTRODUCTION	4
II.	STATEMENT OF FACTS	4
III.	ARGUMENT	5
IV.	CONCLUSION.....	6

Table of Authorities

Cases

Ozmo Licensing LLC v. Dell Technologies Inc. et al., Civil Action No. 1:23-cv-747-ADA (W.D. Tex. Austin) 4

Ozmo Licensing LLC v. Dell Technologies, Inc. et al., Civil Action No. 6:22-cv-00642 (W.D. Tex. Waco).....4

Other Authorities

Consolidated Trial Practice Guide November 2019 6

Handi-Quilter, Inc. v. Bernina Int’l AG, IPR2013-00364, Paper 30 (June 12, 2014) 6

Norman International Inc. v. Andrew J. Toti Testamentary Trust et al., IPR2014-00283, Paper 29 (Sept. 29, 2014).....6

Rules

37 C.F.R. § 42.123 8

37 C.F.R. § 42.123(a).....4

37 C.F.R. § 42.6(e).....8

37 C.F.R. § 42.63(b) 5

I. INTRODUCTION

Patent Owner, Ozmo Licensing LLC, pursuant to 37 C.F.R. § 42.123(a), and under the authorization of the Patent Trial and Appeal Board, granted July 18, 2023, respectfully moves to submit Exhibits 2002 and 2003 as supplemental information.

Supplemental information in Exhibit 2002 is a Claim Construction Order dated July 5, 2023, which includes claim constructions for the patent that is at issue in this IPR (U.S. Patent No. 9,264,991), and which was issued by the Court in *Ozmo Licensing LLC v. Dell Technologies, Inc. et al.*, Civil Action No. 6:22-cv-00642 (W.D. Tex. Waco) (here, “the ’642 District Court case”). The ’642 District Court case has subsequently been transferred to a different venue in *Ozmo Licensing LLC v. Dell Technologies Inc. et al.*, Civil Action No. 1:23-cv-747-ADA (W.D. Tex. Austin) (pending).

Supplemental information in Exhibit 2003 is the transcript of the Markman Hearing before Videoconference before the Honorable Alan D. Albright, dated June 28, 2023, in the ’642 District Court case, which resulted in the Claim Construction Order of Exhibit 2002.

II. STATEMENT OF FACTS

1. On June 28, 2023, a Markman Hearing was held in the ’642 District Court case, a transcript of which is found in Exhibit 2003.

2. On July 5, 2023, the Court in the '642 District Court case issued the Claim Construction Order found in Exhibit 2002. The Order states in part: “The Court issues this Order to memorialize the Court’s final claim construction rulings for the parties, and to inform the parties that the Court plans to issue a more-detailed Order explaining its analysis in due course.”

III. ARGUMENT

Under 37 C.F.R. § 42.63(b), a party may file a motion to submit supplemental information subject to the following requirements: (1) a request for authorization to file a motion to submit supplemental information must be made within one month of the date the trial is instituted, and (2) the supplemental information must be relevant to a claim for which the trial has been instituted.

Both of these requirements are met. Petitioner timely requested the Board’s authorization via email on July 17, 2023, which is less than one month after institution on June 20, 2023, and obtained the Board’s authorization for filing this Motion.

Also, the supplemental information is relevant to a claim for which the trial has been instituted, because the Claim Construction Order of Exhibit 2002 and the associated transcript of Exhibit 2003 include material relating to the construction of Claims 1, 3, 4, 6, 7, 14, 16, and 17, which are part of the claims for which the Board has instituted trial (Claims 1, 3, 4, 6, 7, and 14-18). Relative to the transcript

of Exhibit 2003, it is noted that the Claim Construction Order of Exhibit 2002 indicates its interim nature by stating that a “more-detailed Order” will be forthcoming, and hence the transcript is submitted to provide background to the interim construction of Exhibit 2002.

The Exhibits are provided to update the record in this related IPR proceeding and to comply with the Trial Practice Guide. *See Consolidated Trial Practice Guide* November 2019, page 47 (“Parties should submit a prior claim construction determination by a federal court or the ITC in an AIA proceeding as soon as that determination becomes available.”).

The parties have conferred, and the Petitioner does not oppose the motion.

IV. CONCLUSION

This Motion is timely filed. Patent Owner respectfully requests that the supplemental information in Exhibits 2002 and 2003 be admitted into the record.

Patent Owner will submit copies of Exhibits 2002 and 2003 as supplemental information after this Motion is granted. *See Norman International Inc. v. Andrew J. Toti Testamentary Trust et al.*, IPR2014-00283, Paper 29 (Sept. 29, 2014) at 5 (“Such evidence may only be *filed* if a §123 motion is both *authorized and granted*.”) (emphasis in original) (quoting *Handi-Quilter, Inc. v. Bernina Int’l AG*, IPR2013-00364, Paper 30 (June 12, 2014) at 3.)

Respectfully submitted this 1st day of August, 2023.

/Lawrence P. Cogswell III, Ph.D. 71,441/
Lawrence P. Cogswell III, Ph.D.
Reg. No. 71,441
Hamilton, Brook, Smith & Reynolds, P.C.
155 Seaport Blvd.
Boston, Massachusetts 02210
Phone: (617) 607-5900
Fax: (978) 341-0136

Lead Counsel for Patent Owner
OZMO LICENSING LLC

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on August 1, 2023 the foregoing ***Patent Owner's Motion to Submit Supplemental Information Pursuant to 37 C.F.R. § 42.123*** is being served electronically by agreement of the parties at the following email addresses.

JMBaird@duanemorris.com
david@unifiedpatents.com
michelle@unifiedpatents.com
PHBelnap@duanemorris.com

/Lawrence P. Cogswell III, Ph.D. 71,441/
Lawrence P. Cogswell III, Ph.D.
Reg. No. 71,441
Lead Counsel for Patent Owner
OZMO LICENSING LLC
