

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
and QUALCOMM INCORPORATED,
Petitioner,¹

v.

NETWORK SYSTEM TECHNOLOGIES, LLC,
Patent Owner.

IPR2024-00338
Patent 7,373,449 B2

Before CHARLES J. BOUDREAU, JOHN R. KENNY, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5(a)

¹ Qualcomm Incorporated filed a petition and a motion for joinder in IPR2024-01081 and has been joined as a petitioner in this proceeding. *See* Paper 16. After Qualcomm Incorporated was joined as a petitioner, Samsung Electronics Co., Ltd. was terminated as a petitioner. *See* Paper 17.

After receiving Board authorization, Qualcomm Incorporated (“Petitioner” or “Qualcomm”) moved for Board approval to submit supplemental information under 37 C.F.R. § 42.123(a)–(b). Paper 33 (“Mot.”); *see* Ex. 3005. In particular, Qualcomm requested Board approval to submit the following supplemental information: (1) a Declaration of Dr. Sylvia Hall-Ellis and (2) an Attorney Declaration of Ryan D. Rypka and supporting exhibits that Qualcomm served as supplemental evidence in October 2024. Mot. 1–2.

Network System Technologies, LLC (“Patent Owner”) opposed Qualcomm’s motion. Paper 34.

The Board granted in part Qualcomm’s motion and authorized Qualcomm to submit the Declaration of Dr. Sylvia Hall-Ellis as supplemental information under 37 C.F.R. § 42.123(b). Paper 37, 19. The Board also requested further briefing about whether the Board should (1) waive the “ten business days” requirement in 37 C.F.R. § 42.64(b)(2) and permit the Attorney Declaration of Ryan D. Rypka and supporting exhibits to remain as only served (but not filed) supplemental evidence or (2) “permit submission under 37 C.F.R. § 42.123(b) without the deposition transcript allegedly subject to a protective order in a related civil action.” *Id.*

On December 27, 2024, Patent Owner’s counsel emailed the Board to report that the “parties have conferred and reached the following agreement”:

- (1) “Patent Owner does not object to the Board waiving the requirements of 37 C.F.R. § 42.64(b)(2) to permit the Rypka Declaration and exhibits to remain as only served (but not filed) supplemental evidence”; and

- (2) “Petitioner withdraws its request to submit the Rypka Declaration and exhibits as supplemental information.”

Ex. 3006.

In view of the parties’ agreement, we determine that it is appropriate to waive the “ten business days” requirement in 37 C.F.R. § 42.64(b)(2) and permit the Attorney Declaration of Ryan D. Rypka and supporting exhibits to remain as only served (but not filed) supplemental evidence.

Accordingly, it is

ORDERED that the Board waives the “ten business days” requirement in 37 C.F.R. § 42.64(b)(2) and permits the Attorney Declaration of Ryan D. Rypka and supporting exhibits to remain as only served (but not filed) supplemental evidence.²

² The Board permits this service with respect to the Board’s rules and procedures. The Board is not making any ruling regarding the district court’s protective order.

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