

From: [Trials](#)
To: [Ben Weed](#); [Ju, Iris](#); [Xiaofang Zhong](#); [Gina Johnson](#)
Cc: [Trials](#)
Subject: RE: IPR2024-00340 - Scheduling and Motion to Strike Petitioner's Expert Declaration
Date: Tuesday, October 15, 2024 4:25:48 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
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[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Counsel,

The parties must reach out with mutually-available times on October 17, 2024 for a conference call with the Board to discuss a deposition date for Dr. Cameron.

Regards,

Franchesca I. Alicea Villanueva
Supervisory Paralegal
Patent Trial & Appeal Board
U.S. Patent & Trademark Office
Phone: (571) 270-0989
E-mail: InterferenceTrialSection@USPTO.GOV

From: Ben Weed <ben@ridge.com>
Sent: Tuesday, October 15, 2024 9:53 AM
To: Trials <Trials@USPTO.GOV>
Cc: Ju, Iris <Iris.Ju@glacier.law>; Xiaofang Zhong <xzhong@zhonglaws.com>; Gina Johnson <gina@ridge.com>
Subject: Re: IPR2024-00340 - Scheduling and Motion to Strike Petitioner's Expert Declaration

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Dear Board,

Per the guidance below, we agreed to a two-week extension to Due Date 1 (and filed a stipulation reflecting the same, Paper No. 20). However, since that time, we have not received a deposition date for Dr. Cameron, and Petitioner's counsel is apparently not even authorized to respond on behalf of its client at this time.

I write to renew our request to move to strike Dr. Cameron's declaration on the basis of Petitioner refusing to make her available for a deposition.

I can be available any time today through Thursday of this week, but I am traveling on Friday and will be mostly unavailable.

Ben

Benjamin E. Weed
General Counsel
Ridge | Designed For Life.

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From: Trials <Trials@USPTO.GOV>

Date: Monday, September 30, 2024 at 11:08 AM

To: Ben Weed <ben@ridge.com>, Trials <Trials@USPTO.GOV>

Cc: "Ju, Iris" <Iris.Ju@glacier.law>, Xiaofang Zhong <xzhong@zhonglaws.com>, Gina Johnson <gina@ridge.com>

Subject: RE: IPR2024-00340 - Scheduling and Motion to Strike Petitioner's Expert Declaration

Counsel,

The panel notes that the parties are free to stipulate to extensions to Due Date 1 (October 10, 2024). If the parties are unable to come to an agreement by October 2, the parties must reach out with mutually-available times and days for a conference call with the Board to be held this week.

Best regards,

Eric W. Hawthorne
Supervisory Paralegal Specialist
Patent Trial and Appeal Board

From: Ben Weed <ben@ridge.com>

Sent: Friday, September 27, 2024 12:38 PM

To: Trials <Trials@USPTO.GOV>

Cc: Ju, Iris <Iris.Ju@glacier.law>; Xiaofang Zhong <xzhong@zhonglaws.com>; Gina Johnson <gina@ridge.com>

Subject: IPR2024-00340 - Scheduling and Motion to Strike Petitioner's Expert Declaration

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Dear Board,

I am lead counsel for the Patent Owner in the above-captioned matter. I write to request a conference call to discuss the status of this case in view of lack of engagement/response from the Petitioner, and in view of the impending Due Date 1 (which is coming up on October 10, 2024). During that call, we will also seek to file a motion to strike Petitioner's expert's declaration (Ex. 1003).

I wish to start by acknowledging Patent Owner's cognizance that the Board does not wish to involve itself in scheduling disputes. Nevertheless, I believe this situation requires intervention caused by the party that decided to file the Petition.

In brief, I emailed counsel for the Petitioner for the first time on August 18, 2024, requesting deposition dates for Petitioner's expert in September. Over the next month (until September 20, 2024), I followed up by email seven (7) times, realizing that Due Date 1 was coming. To date, I have not received a single indication that Petitioner's expert is available, much less dates on which she is available, for a deposition.

Instead, on September 25, 2024, I received an email after business hours stating: "Please be advised that Shenzhen Pincan Technology Co., Ltd. intends to substitute its counsel in the ongoing IPR." I requested clarification by responsive email an hour later, and hearing nothing, I followed up the next day (i.e., yesterday) at 2:30pm eastern. In that email, I stated "I know we just corresponded about this last night, but I'd really appreciate the courtesy of a response. This is going to affect at least the IPR scheduling (I still don't have an answer on Dr. Cameron's availability) and I have nothing more than your cryptic email yesterday." Yesterday evening, Petitioner's counsel advised "At this time, it's unclear as our client is considering a change in representation. This has caused some internal delays. I will keep you informed and let you know as soon as i have clarity on how to proceed."

I write to seek guidance from the Board on this situation. Patent Owner is considering filing a motion to strike Petitioner's expert's declaration testimony, as Petitioner seems not to be able to make her available for a deposition. *See, e.g., 1964 Ears, LLC v. Jerry Harvey Audio Holding, LLC*, IPR2016-00494, Order – Conduct of Proceeding (January 10, 2017). But in any case, the schedule seems impossible to meet, and without clarity as to the substitution position Patent Owner fears it will be delayed so far as to prevent the parties and the Board from adhering to the immovable dates that apply here.

Patent Owner is generally available for a call at the Board's convenience.

Ben

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