

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SHENZHEN PINCAN TECHNOLOGY CO., LTD,  
Petitioner

v.

THE RIDGE WALLET LLC  
Patent Owner

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Case IPR2024-00340  
Patent 10,791,808

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**PATENT OWNER'S MOTION TO STRIKE THE  
DECLARATION OF DR. KIMBERLY CAMERON**

**PATENT OWNER'S EXHIBIT LIST**

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                   |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex. 2001           | Declaration of Gina A. Johnson                                                                                                                                                                                       |
| Ex. 2002           | Deposition Transcript from Deposition of Chunmei Peng                                                                                                                                                                |
| Ex. 2003           | Deposition Transcript from Deposition of Dr. Kimberly Cameron                                                                                                                                                        |
| Ex. 2004           | Transcript from June 21, 2023 <i>Markman</i> hearing in USITC Case No. 337-TA-1355                                                                                                                                   |
| Ex. 2005           | Ridge's Answer and Affirmative Defenses to Mosaic's Second Amended Complaint and Counterclaim for Patent Infringement in Case No. 2:20-cv-04556-AB-JC in the Central District of California, dated November 12, 2020 |
| Ex. 2006           | Declaration of Dr. Kimberly K. Cameron Regarding Claim Construction of the '808 Patent in USITC Case No. 337-TA-1355                                                                                                 |
| Ex. 2007           | Patent Owner's Additional Discovery Requests                                                                                                                                                                         |
| Ex. 2008           | Expert Report of Kimberly K. Cameron, Ph. D. regarding Invalidity of U.S. Patent No. 10,791,808 in USITC Case No. 337-TA-1355                                                                                        |
| Ex. 2009           | Joint Stipulations for Dismissal in Case No. 2:20-cv-04556-AB-JC in the Central District of California.                                                                                                              |
| Ex. 2010           | Order on Claim Construction in Case No. 23-cv-00407-CNS-SBP in the District of Colorado.                                                                                                                             |
| Ex. 2011           | Final Initial Determination in USITC Case No. 337-TA-1355.                                                                                                                                                           |
| Ex. 2012           | Declaration of Inventor Daniel Kane in USITC Case No. 337-TA-1355 (REDACTED).                                                                                                                                        |
| Ex. 2013           | U.S. Patent No. 5,038,985 to Chapin.                                                                                                                                                                                 |
| Ex. 2014           | Rebuttal Expert Report of Thomas Kurfess in USITC Case No. 337-TA-1355.                                                                                                                                              |

## I. INTRODUCTION

Patent Owner The Ridge Wallet LLC (“Patent Owner”) hereby requests that the Board strike and expunge the Declaration of Dr. Kimberly Cameron (Exhibit 1003), as well as the Petition’s (Paper 1) reliance on the same, from the record in this proceeding. Petitioner Shenzhen Pincan Technology Co., Ltd. (“Petitioner”) has not provided a deposition date for Dr. Kimberly Cameron, its declarant in support of the Petition, and as such should not be permitted to rely on her testimony in this proceeding.

### *A. Background*

On January 2, 2024, Petitioner filed the Petition (Paper 1) in this case. It relied heavily on the supporting Declaration of Dr. Kimberly Cameron. Ex. 1003. Dr. Cameron’s declaration was apparently executed substantially earlier, on November 14, 2023. Ex. 1003 at 37.

The Board instituted *Inter Partes* Review on July 12, 2024 based, in part, on Dr. Cameron’s opinions. Paper 18. In the Scheduling Order (Paper 19), the Board set Due Date 1 to be October 10, 2024.

On August 18, 2024, working toward Due Date 1 and anticipating needing to prepare declaration(s) of its own, Patent Owner’s counsel first asked for deposition dates of Dr. Cameron. Ex. 3001. Between August 18, 2024, and

September 27, 2024, when Patent Owner first contacted the Board (by email) about this issue, Patent Owner emailed Petitioner seven (7) times about Dr. Cameron's deposition. Ex. 3001. Petitioner did not provide a date or dates on which Dr. Cameron was available for a deposition on her declaration.

On September 30, 2024, the Board responded to Patent Owner's email by advising "that the parties are free to stipulate to extensions to Due Date 1 (October 10, 2024)" and "[i]f 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." Ex. 3001 at 2.

The parties subsequently agreed to extend Due Date 1 by two weeks, from October 10, 2024 to October 24, 2024.

On October 15, 2024, Patent Owner again contacted the Board, via email, to note that the parties had agreed to extend Due Date 1 from October 10, 2024 to October 24, 2024, but that Patent Owner had still "not received a deposition date for Dr. Cameron" because "Petitioner's counsel [was] apparently not even authorized to respond on behalf of its client at this time." Ex. 3001 at 1. Patent Owner contacted the Board because it knew it would not be able to (a) depose Dr. Cameron, (b) prepare its responsive declaration(s), and (c) prepare the Patent Owner Response in the coming nine (9) days.

On October 17, 2024, a conference call was convened between the Board, Petitioner's backup counsel, and Patent Owner's lead counsel. Paper 23 at 2. During that call (and by follow-up Order) the Board instructed Petitioner to provide deposition dates for Dr. Cameron by October 24, 2024. Paper 23 at 3.

Despite several additional emails and a telephone conferral between Patent Owner's lead counsel and Petitioner's backup counsel, Petitioner did not provide deposition dates for Dr. Cameron on October 24, 2024, and Patent Owner was therefore not able to file a Notice of Deposition per the Order. Paper 23 at 3.

Patent Owner brings this Motion pursuant to the Board's authorization of the same. Paper 23 at 3.

*B. Argument*

Petitioner relies on the Cameron Declaration (Ex. 1003) in support of the Petition. Accordingly, cross-examination of Dr. Cameron on her relied-upon testimony is routine discovery under 37 C.F.R. § 42.51(b)(1). *See John's Lone Star Distrib., Inc. v. Thermolife Int'l, LLC*, Case IPR2014-01201, Paper 31 at 3 (PTAB May 13, 2015) (noting that where petitioner relied upon affidavit testimony of declarant in a paper filed in the proceeding, cross-examination of the declarant as routine discovery was triggered under § 42.51(b)(1)).

“[A] party presenting a witness's testimony by affidavit should arrange to

make the witness available for cross-examination. This applies to witnesses employed by a party as well as experts and non-party witnesses.” Office Patent Trial Practice Guide, November, 2019, at 23-24; *see also* 37 C.F.R. § 42.53(g). Thus, under the Board’s rules governing routine discovery, in order for the Board to consider Dr. Cameron’s testimony, Petitioner must make her available for cross-examination by Patent Owner. *HTC Corp. v. NFC Tech., LLC*, Case IPR2014-01198, Paper 41 at 4 (PTAB Nov. 6, 2015) (citing 37 C.F.R. § 42.53(b)(2), (3)). Where cross-examination is unavailable, the Board exercises its authority to strike the declarations under 37 C.F.R. § 42.12(a) and (b). *Id.* (citing *John’s Lone Star*, IPR2014-01201, Paper 31 at 3, and 37 C.F.R. § 42.5(a)).

Because Dr. Cameron has not been made available for cross-examination, expungement of the Cameron Declaration is appropriate. *John’s Lone Star*, IPR2014-01201, Paper 31 at 3 (expunging declarations where declarant not made available for cross-examination); *HTC*, IPR2014-01198, Paper 41 at 5 (same); see also *Ikaria Inc. v. GeNO LLC*, Case IPR2013-00253, Paper 20 at 2 (PTAB Apr. 1, 2014) (authorizing patent owner to file motion to expunge its own declarant’s declaration where patent owner was unable to arrange for deposition of the declarant due to ongoing medical issues). The portions of the Petition that find support in only Dr. Cameron’s opinions should also be expunged, and Petitioner

should not be permitted to rely on Dr. Cameron's opinions at all to help try to carry its burden of proof.

Petitioner has provided no reason for Dr. Cameron's unavailability. While Petitioner's counsel has suggested it may not be Petitioner's counsel in the future (Ex. 3001 at 3), further prejudice to Patent Owner in a proceeding Petitioner's current counsel knowingly brought should not be countenanced.

Particularly where Patent Owner anticipates preparing its own responsive expert declaration and a fact declaration of its founder/inventor regarding secondary considerations of non-obviousness, further extensions are not practical or possible in view of the time constraints provided for by the remainder of this proceeding.

## II. CONCLUSION

This Motion should be granted, and Dr. Cameron's Declaration (Ex. 1003) (and any reliance on the same by Petitioner) should be expunged from the record in this case.

Date: October 28, 2024

Respectfully Submitted,

/s/ Benjamin E. Weed

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CASE NO. IPR2024-00340  
PO MOTION TO STRIKE CAMERON

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**CERTIFICATE OF SERVICE**

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on October 28, 2024, a complete and entire copy of this Motion to Strike the Declaration of Dr. Kimberly Cameron was provided, via email, to the Petitioner by serving the correspondence address of record as follows:

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