

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INCORPORATED

Petitioner

v.

NETWORK SYSTEM TECHNOLOGIES, LLC

Patent Owner

U.S. Patent No. 7,594,052

Inter Partes Review No. IPR2024-00343

**PATENT OWNER'S MOTION TO SUBMIT SUPPLEMENTAL
INFORMATION**

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Regulations

37 C.F.R. § 42.123(b)	1, 2, 3
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Pursuant to 37 C.F.R. § 42.123(b) and authorization from the Board on November 12, 2024, Patent Owner hereby moves to submit supplemental information.

I. BACKGROUND

The proper claim construction of the term “interconnect means” is one of the most important issues in this IPR. Patent Owner has proposed that this term should be construed as “multi-hop interconnection between modules separated by one or more network nodes.” *See* Paper 32 (“POR”) at 15-22. Patent Owner has also argued that Petitioner’s primary reference in Grounds 3-4 fails to disclose an interconnect under this claim construction. POR at 59-63. The Board recognized the importance of this issue in the Institution Decision and asked the parties to provide “further discussion and evidence of what a ‘hop’ entails.” Paper 11 at 43.

On November 4, 2024, Patent Owner took the deposition of Petitioner’s expert, Dr. Todd Mowry, in IPR2024-00338 (“the ‘338 IPR”). In that IPR, Petitioner is challenging U.S. Patent No. 7,373,449 (“the ‘449 Patent”), which like the ‘052 Patent at issue in this IPR, relates to a Network-on-Chip (“NoC”). During the deposition, Dr. Mowry testified regarding the meaning of “hop” and how packets are transmitted through the interconnect in a NoC. Some of this testimony was elicited by Petitioner’s counsel during redirect. Dr. Mowry’s testimony is relevant to the parties’ claim construction for the term “interconnect” in this IPR.

II. THE REQUIREMENTS UNDER 37 C.F.R. § 42.123(B) ARE MET**A. Dr. Mowry's Deposition Testimony Could Not Have Been Obtained Earlier**

Dr. Mowry's deposition transcript "reasonably could not have been obtained earlier," including at the time Patent Owner filed its Response, which was filed on September 30, 2024. 37 C.F.R. § 42.123(b). Patent Owner conducted Dr. Mowry's deposition on November 4, 2024, which was the only date Petitioner offered. Patent Owner promptly requested authorization to file this Motion on November 8, 2024.

B. Considering Dr. Mowry's Deposition Testimony is in the Interests of Justice

Considering Dr. Mowry's deposition testimony from the '338 IPR is in the interests of justice. 37 C.F.R. § 42.123(b). As explained above, his testimony is directly relevant to a key claim construction dispute and sheds light on, for example, how a POSITA would understand the term "hop" in the context of a NoC. His deposition testimony on this topic is also responsive to the Board's request for further evidence and argument on this issue. Paper 11 at 43.

Petitioner is relying on Dr. Mowry's opinions in the '338 IPR to try to invalidate Patent Owner's '449 Patent. It would be unfair for Petitioner to be able to rely on portions of his testimony it believes to be helpful in the '338 IPR, while blocking Patent Owner from introducing other portions of his testimony that undermine Petitioner's positions in this IPR. Patent Owner submits that having a complete record is in the interests of justice.

C. The Stated Bases for Petitioner's Opposition are Meritless

On November 7, 2024, Petitioner stated that it opposed this Motion because (1) “the transcript is from a different witness in a separate IPR proceeding and is inadmissible hearsay” and (2) “the witness did not offer opinions or do analysis in that separate IPR proceeding regarding the construction or boundaries of the term at issue in this IPR.” Neither argument provides a basis to deny this Motion.

First, the Board has previously rejected Petitioner's hearsay argument as a reason to deny a motion to submit supplemental information. *Samsung Elecs. Co. Ltd. v. M&K Holdings Inc.*, IPR2018-00696, Paper 22 at 5 (PTAB Nov. 9, 2018) (finding “hearsay” argument in opposition to motion to submit supplemental information “premature,” because “Rule 42.64 provides the framework ... to object to information offered as evidence and move to exclude objectionable material from evidence during the trial”). Petitioner's hearsay argument is premature unless and until Patent Owner relies on the testimony for a hearsay purpose. At that point, Petitioner can move to exclude. But nothing in 37 C.F.R. § 42.123(b) suggests that Patent Owner must show that the proposed supplemental information is admissible evidence. Indeed, it is standard practice before the Board for parties to submit exhibits without needing to make a threshold showing that they are admissible.

Second, the fact that (1) Petitioner is using a different expert in this proceeding (Dr. Hassoun) and (2) Dr. Mowry did not opine on the '052 Patent does not detract

from the relevance of his testimony. Petitioner’s arguments, at most, go to the weight that the Board should afford to his deposition testimony from the ‘338 IPR, not whether Patent Owner should be allowed to submit the transcript as supplemental information.

In any event, the ‘052 Patent in this IPR and the ‘449 Patent in the ‘338 IPR have the same named inventors and priority dates that are only 2 years apart. *See* Ex. 1001, Cover. In the related district court litigation, the parties agreed that claim terms should be construed the same across the ‘449 and ‘052 Patents. *See, e.g.,* Ex. 2040 at 13 (agreeing that the term “connection properties” should be construed the same for the ‘052 and ‘449 Patents). Petitioner cannot credibly claim that Dr. Mowry’s deposition testimony regarding the term “hop” and the transmission of packets in the context of the ‘449 Patent has no relevance to the same terms in the ‘052 Patent.

Notably, some of Dr. Mowry’s deposition testimony that directly relates to the claim construction issues in this IPR *was elicited by Petitioner* during redirect. Petitioner can hardly complain that Patent Owner is seeking to introduce testimony that Petitioner elicited from its own expert.

Respectfully submitted,

Dated: November 19, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Motion to Submit Supplemental Information was served on November 19, 2024, upon the following parties via electronic service:

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