

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ANKER INNOVATIONS LTD.,
Petitioner,

v.

POWERMAT TECHNOLOGIES LTD.,
Patent Owner.

IPR2024-00996
Patent 8,626,461 B2

Before KEN B. BARRETT, KARA L. SZPONDOWSKI, and
RYAN H. FLAX, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding and
Authorization to File Supplemental Information
37 C.F.R. §§ 42.5, 42.123(b)

On September 20, 2025, a general order was entered in this proceeding stating:

The parties must keep the Board apprised of developments regarding adjudication of validity or patentability of the challenged patent claims, or substantially similar patent claims, such as claim construction, findings of fact, or conclusions of law, in “any other judicial or administrative matter that would affect, or be affected by, a decision in the proceeding.”

Paper 19 (“General Order”) (quoting the September 16, 2025 Memorandum titled “PTAB consideration of prior findings of fact and conclusions of law” (“Memorandum”)¹). It ordered the parties to alert the Board of any such developments within five business days, and file, “after Board consultation,” “relevant materials” from the related matters. *Id.* at 2. The quoted Memorandum “applies when patent claims being challenged before the Board in an America Invents Act (AIA) trial proceeding, or substantially similar patent claims, have already been adjudicated, post-issuance, before the Office, in district court, or at the U.S. International Trade Commission (ITC).” Memorandum 1.

On September 30, 2025, Patent Owner sent an email to the Board stating:

Pursuant to the General Order (Paper 19) in IPR2024-00996, Patent Owner requests authorization to file a September 23, 2025 summary judgment hearing transcript from the underlying district court litigation that occurred on September

¹ Available at www.uspto.gov/sites/default/files/documents/Memo_re_prior_findings_of_fact_and_conclusions_of_law_9_16_25.pdf

23, 2025. The transcript relates to how the parties are interpreting the prior art currently before the Board.

Ex. 3002. Petitioner opposes the request to file the transcript, arguing that “such a hearing transcript is not a district court’s ‘adjudication’ under the General Order.” *Id.*

As mentioned above, the Memorandum applies when there has been an adjudication of claims presently challenged at the Board. Patent Owner does not identify any such adjudication, and has not otherwise explained adequately why the transcript should be filed pursuant to the Memorandum or the General Order. Accordingly, we *deny* Patent Owner’s request to file the summary judgment hearing transcript pursuant to the General Order.

Patent Owner, in the alternative, requests authorization to file the transcript as supplemental information pursuant to 37 C.F.R. § 42.123(b).

Ex. 3002. Patent Owner argues:

The information could not have reasonably been obtained earlier—the hearing only occurred on September 23, 2025. Consideration of the supplemental information would be in the interests-of-justice because statements (party admissions) made by Petitioner in the district court are inconsistent with positions it takes in this proceeding. There is no prejudice to Petitioner because Patent Owner agrees that Petitioner may briefly respond to the issue after Patent Owner’s sur-reply.

Id.

“Petitioner opposes because Patent Owner does not satisfy the heightened ‘interests of justice’ standard,” and Petitioner asserts that it “will suffer prejudice if Patent Owner is permitted to discuss new evidence in its sur-reply without a fair opportunity for Petitioner to equally address such new evidence in any paper.” *Id.* According to Patent Owner’s email, “[t]he parties conferred and agreed that this ‘prejudice’ would be resolved if the

Board authorizes Petitioner to file a 2-page additional brief after the sur-reply for the limited purposes of addressing the proposed new exhibit.”
Id.

Patent Owner’s Sur-reply was filed on October 1, 2025, and appears to contain one sentence plus two paragraphs addressing the purportedly inconsistent statements. Paper 21, 6–7 (two paragraphs of argument); *id.* at 1 (Patent Owner arguing that “Petitioner belatedly urges the Board to adopt constructions that . . . are inconsistent with . . . Petitioner’s non-infringement arguments in the co-pending district court litigation.”).

Where, as here, the request to submit supplement information is made more than one month after institution, the requester “must show why the supplemental information reasonably could not have been obtained earlier, and that consideration of the supplemental information would be in the interests-of-justice.” 37 C.F.R. § 42.123(b). We determine that Patent Owner has made an adequate showing. We specifically determine that—on the facts of this particular case and in light of the parties’ agreement as to the elimination of any prejudice to Petitioner—that our consideration of the purportedly inconsistent claim construction positions is in the interest of justice.

Patent Owner is authorized to file the summary judgment hearing transcript as an exhibit in this proceeding within two business days of this order. Petitioner is authorized to file, within five business days of this order, a brief of no more than two pages. Petitioner’s brief is limited to addressing the arguments in Patent Owner’s Sur-reply regarding the purportedly inconsistent statements and the summary judgment hearing transcript.

It is so ORDERED.

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