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Paper 60
Date: January 12, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOE TECHNOLOGY GROUP CO., LTD.,
Petitioner,

v.

OPTRONIC SCIENCES LLC,
Patent Owner.

IPR2024-01130 (Patent 7,168,842 B2)
IPR2024-01131 (Patent 7,226,801 B2)
IPR2024-01132 (Patent 7,586,121 B2)
IPR2024-01133 (Patent 9,263,509 B2)
IPR2024-01134 (Patent 9,406,733 B2)
IPR2024-01315 (Patent 8,158,477 B2)

Before THU A. DANG, BENJAMIN D. M. WOOD, and KEVIN W. CHERRY, *Administrative Patent Judges.*

CHERRY, *Administrative Patent Judge*.

ORDER
Denying Patent Owner's Motion to Dismiss for Failure to Name all Real Parties-In-Interest
37 C.F.R. § 42.5

I. DISCUSSION

BOE Technology Group Co., LTD. ("BOE" or "Petitioner") filed petitions requesting *inter partes* review of certain claims in various patents owned by Optronics Sciences, LLC ("Patent Owner"). *See, e.g.*, Paper 1[1] . In its petitions, it identified itself—BOE Technology Group Co. LTD.—as the sole real party-in-interest ("RPI"). *See id.* at 92 ("BOE Technology Group Co. Ltd. is the real party-in-interest."). In response to the petition, we instituted *inter partes* reviews in each of the above-captioned proceeding for all of the challenged claims. *See, e.g.*, Paper 14.

After institution, Optronics Sciences, LLC ("Patent Owner") sought authorization to file a motion to dismiss the petitions because they fail to disclose all of the RPIs for these proceedings. *See* Ex. 1043. We authorized the motion. Patent Owner filed its Motion with exhibits. *See* Paper 42 ("Motion" or "Mot."). Petitioner filed an Opposition with exhibits. *See* Paper 44 ("Opposition" or "Opp.").

In its Motion, Patent Owner argues that Petitioner "failed to disclose all RPIs, including the People's Republic of China." Mot. 1. Patent Owner contends that "BOE is widely known as a state-backed foreign actor. BOE is on the Department of Commerce's 'entity list'—exactly the type of entity Director Squires warned has already 'been deemed a national security threat'

[1] All citations are to the record in IPR2024-01130, unless otherwise noted. Similar papers have been filed in the other cases.

and is filing a 'substantial and increasing number of IPRs.'" *Id.* (citing Ex. 2029, 2–3; Ex. 2030; Ex. 2037, 2; Ex. 2031, 1).

Patent Owner asserts that "BOE's annual report confirms that China/Beijing are the latest shareholder and the 'Actual Controller' of the Petitioner." *Id.* at 2 (citing Ex. 2032, 5, 7; Ex. 2033, 111–12; Ex. 2034, 6; Ex. 2035, 2; Ex. 2036). Thus, Patent Owner argues that we should vacate our Institution Decisions and dismiss the petitions because of Petitioner's failure to include the People's Republic of China as an RPI.

In its Opposition, Petitioner argues that its RPI identification is correct. Opp. 1. First, Petitioner contends that Patent Owner's allegations that Petitioner "is on the Department of Commerce's 'entity list' is simply wrong." *Id.* (citing Ex. 1035 ¶¶ 3–4). Petitioner submits that Patent Owner may be confusing it with "an unrelated entity named 'Beijing Opto-Electronics Technology Company' ('Beijing Opto')." *Id.* (citing Ex. 2030, 2). Second, Petitioner asserts that Patent Owner "misstates the role of BOE's 'actual controller,' both misidentifying who the 'actual controller is and the nature of its responsibility over BOE." *Id.* at 3. Petitioner argues that Patent Owner "misidentifies BOE's 'actual controller' as the [People's Republic of China], whereas [Patent Owner's] evidence identifies 'Beijing Electronics Holdings Co., Ltd. ('BEH')." *Id.* (citing Ex. 2033, 111–112; Ex. 1035 ¶ 5). Petitioner submits that as the exhibit Patent Owner "cites expressly states, the 'actual controller' does not control BOE in any way relevant to the RPI analysis." Petitioner argues that "[t]he BOE annual report demonstrates that BOE is 'independent from the controlling

shareholder and the actual controller in terms of business, personnel, assets, organization and financing, with independent & complete business and capability to operate independently.'" *Id.* (quoting Ex. 2033, 46; citing Ex. 1035 ¶ 5). Petitioner contends that "BEH does not fund, direct, or control this IPR petition or proceeding," and that "PO's generalized attorney argument of control does not show otherwise." *Id.*

A petitioner must "identif[y] all real parties in interest" in an *inter partes* review petition (37 C.F.R. § 312(a)(2)), and the petition must be filed no more than one year after "the date on which the petitioner, real party in interest, or privy of the petitioner is served with a complaint alleging infringement of the patent" (35 U.S.C. § 315(b)).

A petitioner's identification of RPIs "should be accepted unless and until" a patent owner "produce[s] some evidence that tends to show that a particular third party should be named a real party in interest." *Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1243–44 (Fed. Cir. 2018). "A mere assertion that a third party is an unnamed real party in interest, without any support for that assertion, is insufficient to put the issue into dispute." *Id.* Once the patent owner has sufficiently raised the issue, the "petitioner bears the burden of persuasion to demonstrate that its petitions are not time-barred under § 315(b) based on a complaint served on a real party in interest more than a year earlier." *Id.* at 1242.

"[W]hether a party who is not a named participant in a given proceeding is a 'real party-in-interest' to that proceeding 'is a highly fact-dependent question.'" *Corning Optical Communications RF, LLC v. PPC*

Broadband, Inc., IPR2014-00440, Paper 68, at 14 (PTAB Aug. 18, 2015) ("*Corning*") (precedential) (citing *Taylor v. Sturgell*, 533 U.S. 880 (2008)). There is no "bright line test." *Id.* This inquiry demands a flexible approach that takes into account both equitable and practical considerations, with an eye toward determining whether the non-party is a clear beneficiary that has a preexisting, established relationship with the petitioner. *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336, 1351 (Fed. Cir. 2018) ("*AIT*"). The Supreme Court in *Taylor* sets forth a list of factors that might be relevant in a particular case. 533 U.S. at 893–95. Although "rarely will one fact, standing alone, be determinative of the inquiry," "[a] common consideration is whether the non-party exercised or could have exercised control over a party's participation in a proceeding." *Corning*, at 14. "A non-party's participation with a petitioner may be overt or covert, and the evidence may be direct or circumstantial, but the evidence as a whole must show that the non-party possessed effective control over the IPR proceeding." *Id.* at 15.

We find that Petitioner has shown by a preponderance of the evidence that its identification of RPIs is correct. Patent Owner presents two theories to support its contention that Petitioner's RPI identification is incorrect. First, Patent Owner argues that Petitioner is on the Department of Commerce watchlist as evidence that it is controlled by the People's Republic of China. *See* Mot. 1 (citing Ex. 2030). In support of this argument, Patent Owner cites the Department of Commerce's Entity List, which includes a "Beijing Opto-Electronics Technology Company a.k.a, the

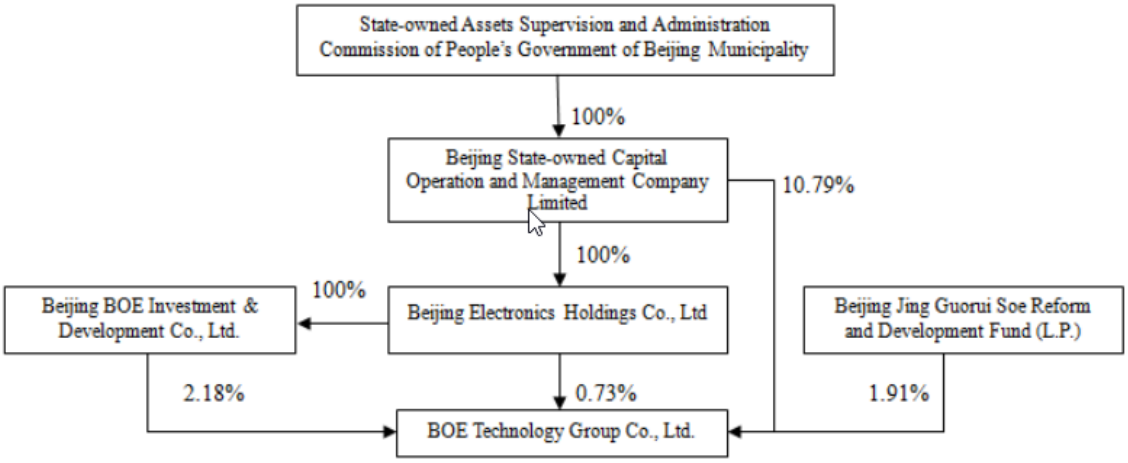
following alias: —BOET." *See* Ex. 2030, 2. However, Petitioner has provided persuasive evidence, in the form of the testimony of Yongqi Zhang, an IP Counsel at BOE Technology Group Co. Ltd. (i.e., Petitioner) that it is *not* the same company as the entity—Beijing Opto-Electronics Technology Company—included in the Department of Commerce Entity List. *See* Ex. 1035 ¶¶ 1–4.

Patent Owner also cites a letter from John Moolenaar, Chairman of the House Select Committee on the Chinese Communist Party sent to the U.S. International Trade Commission in an unrelated patent infringement investigation, dated December 18, 2024. *See* Ex. 2031. The letter asserts that "the PRC [People's Republic of China] has groomed BOE as its national champion in the display industry," and "BOE directly supplies displays to the People's Liberation Army (PLA) and operates out of a 'military-civil fusion enterprise zone' that supports Huawei Technology Co. Ltd. (Heiwei)." *Id.* at 1. However, this letter falls short of alleging that the Chinese government controls BOE, merely that the Chinese government may be a customer of BOE and may provide some unspecified support to BOE. We do not find this evidence sufficient to even put in dispute that the Chinese government exercises or could exercise the kind of control that would be necessary to make it an RPI of Petitioner.

Second, Patent Owner points to Petitioner's annual report as evidence that the Chinese government is the "actual controller" of Petitioner. *See* Mot. 2–3. In particular, Patent Owner cites the following figure found on page 112 of Petitioner's 2024 Annual Report (dated April 2025). This

figure, reproduced below, shows the ownership and control relationships between the "actual controller" and BOE.

Ownership and control relations between the actual controller and the Company:



The figure from the BOE 2024 Annual Report shows the ownership structure of BOE and other entities. Ex. 2033, 112.

We note that Petitioner is correct that the BOE Annual Report identifies Beijing Electronics Holdings Co., Ltd. ("BEH") as BOE's "actual controller," not the People's Republic of China, as Patent Owner alleges. *See id.* At best, the report seems to indicate that shares in BEH are owned by the Beijing municipality. *Id.* Patent Owner seems to suggest that under Chinese law the "actual controller" could control these proceedings. *See* Mot. 2–3. However, Patent Owner's own evidence suggests otherwise. For example, as shown in the Figure reproduced above, BEH's direct ownership of BOE is only 0.73% of its shares, and indirect ownership is, no more than 15%. *See* Ex. 2033, 112. Moreover, BOE's Annual Report in a section entitled "The Company's Independence from Its Controlling Shareholder

and Actual Controller in Business, Personnel, Asset, Organization and Financial Affairs" states:

> The Company was independent from the controlling shareholder and the actual controller in terms of business, personnel, assets, organization and financing, with independent & complete business and capability to operate independently.
>
> 1. In business, the Company was independent from the controlling shareholder and the actual controller, with its own production and business departments and management system, the Company had the capability to make its own decisions, assume sole responsibility for its profits and losses, and operate independently with independent and complete business.
>
> 2. In personnel, the Company was completely independent in labor, staff and remunerations. The Company had its own operating management team. The Chairman of the Executive Committee and other senior management staffs of the Company all worked on full-time basis in the Company and did not hold any post in or receive any remuneration in the controlling shareholder unit.
>
> 3. In assets, the Company had independent and complete assets. With clear ownership on its assets, the Company independently owned the production system, ancillary production system as well as supporting facilities for major businesses, as well as assets like land use rights and intellectual property rights, etc.. Neither the controlling shareholder nor the actual controller appropriated any assets of the Company.
>
> 4. In organization, the Company had established its organization completely independent from the controlling shareholder and the actual controller, with independent and sound organs and corporate governance structure. The Company had not handled any official affairs jointly with the controlling shareholder or the actual controller. There were no subordinate relationships

> between the controlling shareholder & its functional departments and the Company & its functional departments.
>
> 5. In financing, the Company had established independent financial departments, with full-time finance personnel. The Company had also formulated a standard and independent finance accounting system as well as financial measurement system, established the corporate financial management archives and deployed relevant administrative personnel for them, opened independent account in bank, and paid tax independently.

Ex. 2033, 46.

Mr. Zhang also testifies that BOE is a publicly traded company and that it operates independently of BEH and these other entities. *See* Ex. 1035 ¶ 5. Mr. Zhang also testifies that BOE "has independently made its decisions (such as whether or not to file a petition, prior art selection, and counsel selection) in these IPRs and the many other IPRs it has filed.

Beijing Electronics Holdings Co., Ltd. does not fund, direct, or control these IPR petitions or proceedings." *Id.*

This evidence stands in contrast to the situation in the precedential *Corning* case. *See Corning*, at 17–23. In *Corning*, the evidence showed a blurring between the entities where the same personnel acted as officers and employees across the different companies, and that "'rather than maintaining well-defined corporate boundaries,' evidence indicates that Petitioner and Corning NC may be 'so intertwined that it is difficult for both insiders and outsiders to determine precisely where one ends and another begins,' notwithstanding their different geographic locations." *Id.* at 17. Here, the limited evidence presented by Patent Owner suggests the opposite, that BOE

and BEH exist as separate and independent companies. *See* Ex. 2033, 46; Ex. 1035 ¶¶ 1–5. In particular, the evidence suggests the filing and control of these proceedings rest with Petitioner BOE. Thus, we find that the preponderance of the evidence shows that Petitioner's RPI identification is correct.

II. ORDER

Accordingly, it is

ORDERED that Patent Owner's motion to dismiss is *denied.*

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