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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUMIO CORP.,
Petitioner,
v.
FACETEC, INC.,
Patent Owner.

IPR2025-00106 (Patent 10,776,471 B2)

IPR2025-00107 (Patent 11,157,606 B2)

IPR2025-00108 (Patent 11,693,938 B2)

IPR2025-00109 (Patent 11,874,910 B2)

REMOTE TELEPHONIC PROCEEDINGS

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2 Judge Garth D. Baer, Judge Nabeel U. Khan, and
3 Judge Bach V. Hoang, via telephonic conferencing,
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8 the hour of 3:00 p.m. EST, on the 5th day of
9 August, 2025.

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1 A P P E A R A N C E S :

2 ** ALL PARTIES APPEARING REMOTELY **

3

4 THE PANEL :

5 JUDGE GARTH D. BAER

6 JUDGE NABEEL U. KHAN

7 JUDGE BACH V. HOANG

8

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1 A P P E A R A N C E S : (Continued)

2 ** ALL PARTIES APPEARING REMOTELY **

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1 JUDGE BAER: This is a call for
2 IPR2025 -106, -107, -108, and -109. I'm
3 Judge Baer. With me on the line is also
4 Judge Hoang and Judge Khan.

5 First of all, who do we have for 03:01
6 petitioner on the call, please?

7 MS. NGUYEN: This is Jean Nguyen on
8 behalf of petitioner Jumio. With me are my
9 colleagues, Mehran Arjomand and Alex Yap.
10 I also have another colleague on the phone, 03:01
11 Chelsea Kehrler. And also with us is
12 Jumio's counsel, Amanda Bradley.

13 JUDGE BAER: Thank you, Counsel. And
14 who do we have for patent owner, FaceTec?

15 MR. STACH: Hello, Your Honor. This 03:01
16 is Jason Stach. And with me is my
17 colleague, Anthony Berlenbach, representing
18 FaceTec.

19 JUDGE BAER: Thank you, Mr. Stach.
20 It sounds like somebody has set up a court 03:02
21 reporter; is that correct?

22 MR. STACH: Yes, Your Honor. We did
23 that. This is Jason Stach.

24 THE STENOGRAPHER: Good morning,
25 Judge. It's Janice Koczek. 03:02

6

1 JUDGE BAER: I believe that was
2 counsel for petitioner and I didn't hear
3 what you said.

4 Could you say that again,
5 please? 03:02

6 MR. STACH: Yes, Your Honor. This is
7 Jason Stach. We retained the court
8 reporter and she is on the line.

9 JUDGE BAER: Thank you, Mr. Stach.
10 But I believe counsel for 03:02
11 petitioner also had something to add to
12 that.

13 Did you have something for us,
14 petitioner?

15 MS. NGUYEN: No, Your Honor. I 03:02
16 believe the person speaking was the court
17 reporter.

18 JUDGE BAER: Great. Thank you.

19 All right. To get going on the
20 substance then, this call is about what I 03:02
21 understand to be patent owner's request for
22 authorization to file a motion for
23 additional discovery.

24 So patent owner, given that it
25 is you that's seeking something here, we'd 03:03

1 like to begin with you. If you would
2 please tell us specifically what it is
3 you're seeking.

4 MR. STACH: Thank you, Your Honor.

5 This is Jason Stach again. We're seeking 03:03
6 limited discovery on two topics. One is
7 related to privity and real party-in-interest,
8 and the second is objective indicia of
9 nonobviousness.

10 And we have four requests 03:03
11 related to the first category and three
12 requests related to the second. And you
13 mentioned additional discovery.

14 We do believe we meet the
15 standards under the Garmin factors for 03:03
16 additional discovery for all (inaudible)
17 requests, but we also believe that we meet
18 the standard for routine discovery.

19 And so if -- if you'd like, I'll
20 walk through just sort of one of the -- the 03:04
21 first request and explain what I mean under
22 both of those prongs.

23 JUDGE BAER: That would be great.

24 MR. STACH: The first request relates
25 to an indemnification agreement between 03:04

8

1 petitioner Jumio and a third party named
2 IProov. And you may recall from the
3 preliminary briefing the foreign
4 institution that we had talked about in our
5 papers, this relationship between those two 03:04
6 companies. And IProov is a company that is
7 time-barred on two of the patents that are
8 involved in these proceedings.

9 And so we think it is relevant
10 to inquire into the relationship further 03:04
11 between those companies. And in
12 particular, we know that there is an
13 indemnification agreement that has been
14 discussed, in fact, in the papers in these
15 proceedings before the Board. 03:04

16 And Jumio, in fact, in one of
17 its papers, paper 10 in the 106 proceeding,
18 actually characterizes the nature of that
19 agreement and the substance of it. They
20 say that IProov and Jumio had an 03:05
21 arm's-length business relationship with a
22 standard indemnity agreement.

23 And so because they have
24 discussed this agreement in their papers,
25 it's gone beyond just mentioning that it 03:05

1 exists, but even gone so far as to
2 characterize what is just standard as
3 opposed to, you know, something else --
4 something more perhaps.

5 We believe it falls under 03:05
6 routine discovery where there's a
7 regulation with the Board that says that if
8 you cite to a document in your paper that
9 you haven't previously served, then you
10 need to serve that document with the paper. 03:05

11 So here we think that because
12 they have addressed the substance of it
13 that they do need to provide it as routine
14 discovery.

15 But as a separate matter, we 03:05
16 also believe the Garmin factors for
17 additional discovery, you know, for
18 Factor 1, we know that this document
19 exists. There doesn't seem to be any
20 dispute about that. 03:06

21 We also know that it's relevant
22 to the issues before the party and is
23 likely to be helpful to our positions. And
24 as the Board noted in the institutional
25 decisions, for example, in the 106, the 03:06

10

1 Board noted that an indemnification
2 agreement can in some instances support a
3 finding that an indemnitor is a real party
4 in interest.

5 So I think legally and factually 03:06
6 this is helpful for our case. We know it
7 exists. And so we think we meet Garmin
8 Factor 1.

9 Garmin Factor 2, we are not
10 seeking litigation positions. 03:06

11 Factor 3, about obtaining this
12 through equivalent information through
13 alternative means, we actually tried to do
14 that. We reached out to both Jumio and
15 IProov, both parties to the indemnification 03:06
16 agreement, and asked them both if they
17 would provide it to us.

18 Obviously Jumio has refused, as
19 a party here, and is on the line. IProov
20 separately also refused. And we can even 03:07
21 talk about the email that the IProov sent
22 to the Board, whether we would like to get
23 into that.

24 But for Garmin Factor 3, we've
25 done what we could. We tried to narrow the 03:07

11

1 issues before coming to you all, Your
2 Honor, and both parties to the agreement
3 have refused. So we think we meet Garmin
4 Factor 3.

5 Garmin Factor 4 about easily 03:07
6 being understood. Jumio, you know --

7 JUDGE BAER: Counsel, if I could,
8 Mr. Stach, just in the interest of time, so
9 I appreciate you going through this here.

10 Other than the indemnification 03:07
11 agreement you said there were, what other
12 information are you seeking related to RPI
13 and privity, just to make sure we're not on
14 the phone forever here.

15 MR. STACH: I very much appreciate 03:07
16 that.

17 Yes. So the second request is
18 documents sufficient to show any payments
19 made by IProov to Jumio or any other third
20 party under the agreement. And so we're 03:08
21 just looking for how has IProov satisfied
22 its obligations under the agreement that
23 apparently exists.

24 The third topic relates to
25 correspondence between Jumio and IProov 03:08

12

1 about prior art for invalidity, including
2 related to these inter partes reviews,
3 which we think obviously is relevant to
4 whether IProov is behind the scenes
5 exercising control and participating in 03:08
6 some way under the indemnity agreement
7 under these proceedings.

8 And then the last category for
9 RPI and privity relates to some statements
10 from Jumio's chief revenue officer at the 03:08
11 time in one of our exhibits, Exhibit 2001.

12 It talks about how close the
13 relationship is between Jumio and IProov
14 and how they were working as one team.

15 And so we think all of this 03:09
16 together is helpful to our case, that this
17 is not your typical arm's-length business
18 relationship. This is something more that
19 would tip into the area of privity and more
20 party-in-interest. 03:09

21 JUDGE BAER: On that last one,
22 Mr. Stach, I remember the statement you're
23 talking about. What specifically would you
24 be seeking?

25 How would you be -- what would 03:09

13

1 that request be specifically? Would that
2 be a request to Jumio? Would it be a
3 request to FaceTec? Sort of anything about
4 your relationship? Or something more
5 specific?

03:09

6 MR. STACH: So I presume they have a
7 basis -- that the chief revenue officer has
8 a basis for making the statement. And I do
9 not know exactly what information the chief
10 revenue officer had in mind in making that
11 statement.

03:09

12 But I do believe there would be
13 documents showing the collaboration between
14 the two and maybe the substances and legal
15 requirements that each party, between
16 IProov and Jumio, what the requirements
17 would be related to their contributions to
18 their relationship.

03:10

19 And I think it is telling that,
20 you know, the way it's characterized that
21 they were operating as one team I think is
22 an interesting way to phrase things when --
23 if they really are --

03:10

24 JUDGE BAER: I'm going to cut you off
25 there, Counsel. Mr. Stach, really what I'm

03:10

14

1 interested is the specificity with which --
2 what specific information you're looking
3 for. And I think you've answered my
4 question on that one.

5 So if you could turn to 03:10
6 objective indicia and tell us what you're
7 seeking on objective indicia, please.

8 MR. STACH: Certainly, Your Honor.
9 Thank you.

10 JUDGE BAER: And again, I apologize. 03:10
11 I'm not trying to be rude, but we've got a
12 lot to cover in this call and not that much
13 time to do it. So...

14 MR. STACH: Absolutely. I very much
15 appreciate the direction. 03:10

16 So for objective indicia, small
17 bit of background is just that Jumio were
18 the licensee of FaceTec for years. And as
19 part of the license, FaceTec shared
20 information with Jumio about FaceTec's 03:11
21 products.

22 Then the license ended and Jumio
23 released a product that looks I'll say
24 substantially similar, just because that's
25 the language that's in the case law about 03:11

15

1 copying as an objective indicia. But it's
2 virtually identical from a user's
3 standpoint. It's I think more than
4 substantially similar.

5 So what we're seeking in one of 03:11
6 our requests is documents reflecting
7 Jumio's use of that information that
8 FaceTec provided when Jumio was a licensee
9 and how that information was used when
10 creating Jumio's own liveness assurance 03:11
11 software.

12 And so it's directed very
13 narrowly to the copying question that we
14 think exists here. And I think, you know,
15 if there are no documents on it, then it 03:12
16 shouldn't be a very burdensome request for
17 them to respond to.

18 But if there are extensive
19 documents, then I think that's very
20 damaging that they would have extensive 03:12
21 documentation showing how they used
22 FaceTec's software to develop their own
23 software.

24 JUDGE BAER: But Mr. Stach, this is
25 going to be a request for new documents. 03:12

16

1 It's not like these are documents that you
2 have in a related district court matter
3 that have already been produced or anything
4 like that; is that correct?

5 MR. STACH: You are correct, Your 03:12
6 Honor.

7 JUDGE BAER: Okay. So would I be
8 correct to characterize it as any
9 documentation regarding Jumio's potential
10 copying of FaceTec's patent? 03:12

11 MR. STACH: I think that's --
12 (Simultaneous speaking.)

13 MR. STACH: Yeah, yeah, our request
14 is more narrow and specific than that. But
15 yes, it's related to that general topic. 03:13

16 JUDGE BAER: And you mentioned there
17 were a few more. Go ahead with the others.

18 MR. STACH: Yes. There's just two
19 others related to the objective indicia.
20 So FaceTec and Jumio and many others in 03:13
21 this industry are private companies. And
22 so there's not a lot of information that's
23 in the public sphere about sales data, for
24 example, and things that would relate to
25 commercial success. 03:13

17

1 And so some of our -- well, one
2 of the requests relates to the size of the
3 market of the accused products, and then
4 one relates to sales data for the accused
5 products. And there's actually two pending 03:13
6 litigations.

7 And so we're looking for not,
8 you know, scorched earth, every document
9 about this, but just documents sufficient
10 to show the sales, documents sufficient to 03:13
11 show the size of the market from Jumio's
12 perspective.

13 And then also to the extent that
14 there are records of drivers of demand,
15 Jumio does do an annual survey of customers 03:14
16 in the marketplace and they post some of
17 their findings on the website.

18 JUDGE BAER: So Mr. Stach, would it
19 be fair we're talking about broadly Jumio's
20 -- evidence of Jumio's commercial success 03:14
21 for their products? Is that roughly what
22 we're talking about?

23 MR. STACH: Yes, Your Honor.

24 JUDGE BAER: And again, you don't
25 have any of these documents. This is not 03:14

18

1 something that's been produced or
2 identified in the district court or
3 anything like that. This would just be a
4 request for any documents -- this would be
5 a new request; is that correct? 03:14

6 THE WITNESS: To some degree, yes. I
7 guess I would cabin that by saying that we
8 do have some of this information. It's not
9 that we are speculating that, for example,
10 the fact that Jumio does this annual survey 03:14
11 of customers, for example. That's
12 information we have. We have some of the
13 findings. Just the findings they choose to
14 post on their website, for example.

15 So I guess it's not that we're 03:15
16 just asking with no basis. We have
17 documents showing there is a basis. But we
18 are not -- at least I'm not aware of Jumio
19 having produced, say, for example, the
20 underlying survey data in the litigation. 03:15
21 I'm not aware of that happening.

22 So anyway, I just want to be
23 careful to say --

24 JUDGE BAER: So in addition to this
25 specific annual survey -- in addition to 03:15

19

1 this specific annual survey, you're also
2 after information on their sales and
3 roughly what the market is for this
4 product. Something -- something like that.

5 Do I have that correct? 03:15

6 MR. STACH: You do have that correct,
7 Your Honor.

8 JUDGE BAER: Okay. And there was one
9 more, I believe.

10 MR. STACH: No, Your Honor. So there 03:15
11 were three requests for objective indicia
12 and it was essentially the copying and the
13 two -- we had two that are related to
14 market and sales.

15 JUDGE BAER: That was the commercial 03:15
16 success and the annual survey were the two?
17 The sales -- excuse me, the sales and the
18 annual survey; is that right?

19 MR. STACH: That's correct. That's
20 -- the annual survey is an example of the 03:16
21 -- you know, the -- the way we worded it is
22 more about, you know, the drivers of
23 demand, I think. But the survey is an
24 example of it.

25 JUDGE BAER: So I'm still not seeing 03:16

20

1 the two categories. The two categories,
2 one being the market and the second
3 category being sales; is that right?

4 MR. STACH: Yes, we have the market,
5 we have sales, and then we have the copying 03:16
6 that we previously discussed.

7 JUDGE BAER: Got it. So that's
8 three, market, sales, and copying. Got it.

9 Counsel for petitioner, I'm
10 assuming that this is opposed. Could you 03:16
11 give us petitioner's position on this,
12 please?

13 MS. NGUYEN: Yes, Your Honor. If I
14 may, I'd like to start by providing a
15 quick, high-level summary of the events 03:16
16 that have arisen as part of this
17 proceeding.

18 So with respect to the RPI
19 privity issue, patent owner first raised
20 this issue in its POPR. Your Honor 03:17
21 addressed it in the decision on institution
22 and did not find patent owner's favorable
23 -- in favor for patent owner's RPI/privity
24 argument.

25 After that patent owner raised 03:17

21

1 the privity RPI issue again in its request
2 for director review. That decision for
3 request for director review came out today
4 and was again denied.

5 And now, Your Honor, patent 03:17
6 owner is asking for discovery in attempts
7 to raise the RPI privity issue again for
8 the third time.

9 So as Your Honors knows,
10 discovery is limited in IPRs. The statute 03:17
11 only allows for limited routine discovery.
12 And any additional discovery is only if in
13 the interest of justice.

14 With respect to routine
15 discovery, FaceTec makes requests for 03:17
16 documents that are not exhibit-cited in any
17 paper and do not contain relevant
18 information that is inconsistent with the
19 position advanced by petitioner Jumio.

20 Thus, it is petitioner's 03:18
21 position that patent owner's request do not
22 satisfy any other requirements for routine
23 discovery.

24 With respect to additional
25 discovery, it is petitioner's position that 03:18

22

1 the request should not be granted because
2 FaceTec's sales can be a burden to show
3 that the Garmin factors weigh in favor of
4 the Board granting additional discovery.

5 For the privity and RPI 03:18
6 argument, FaceTec has failed to show
7 anything more than a mere possibility that
8 the discovery it seeks will show RPI or
9 privity relationship.

10 It has not shown that it is 03:18
11 already in possession of evidence beyond
12 this mere speculation.

13 And then for secondary
14 consideration arguments, FaceTec claims its
15 request relate to objective indicia of 03:18
16 nonobviousness. But those documents are --
17 these requests are not appropriate for
18 routine or additional discovery.

19 Especially since FaceTec had the
20 opportunity to raise these arguments in 03:19
21 its response and its surreply but yet it
22 never did. This is the first time we've
23 been hearing about these arguments.

24 And Your Honor, another reason
25 petitioner does not believe you should 03:19

23

1 allow patent owner's request for routine or
2 additional discovery is because it adds a
3 whole other layer of issues.

4 There would be issues involving
5 a third-party subpoena by IProov. And 03:19
6 there's also issues related to patent owner
7 separately seeking to depose a former APJ,
8 Ms. Jessica Kaiser.

9 All these issues would distract
10 from the core of the IPR proceeding and it 03:19
11 would waste the Board's and parties'
12 resources, costs, and time.

13 JUDGE BAER: Counsel, let me -- let
14 me interrupt you for a minute here. I
15 didn't hear anything, and we can -- and 03:19
16 we'll get Mr. Stach to speak on this, too.
17 I didn't hear anything that would
18 necessarily implicate either a third-party
19 subpoena or a subpoena of Ms. Kaiser.

20 What is it that you heard that 03:20
21 they are seeking that is not in Jumio's
22 possession?

23 MS. NGUYEN: Yes. I believe there
24 was an email by IProov referencing a
25 third-party subpoena. 03:20

24

1 JUDGE BAER: I saw the email and I'm
2 familiar that IProov brought that up. But
3 I'm just not seeing anything that -- that
4 patent owner has asked for that wouldn't be
5 in Jumio's possession. 03:20

6 Is there something I'm missing
7 there? If you're not aware of it, that's
8 fine. We can ask Mr. Stach in a moment.
9 But I want to know if you know of something
10 that patent owner is seeking that is only 03:20
11 in Jumio's -- excuse me, in IProov's
12 possession.

13 MS. NGUYEN: Your Honor, we're
14 currently not aware of anything. That
15 email came to us as (inaudible). 03:21

16 JUDGE BAER: Fair enough.

17 MS. NGUYEN: And then with respect to
18 the deposition of Mr. Jessica Kaiser,
19 FaceTec has informed us that this is
20 something that they plan to do with respect 03:21
21 to asking her questions about RPI and
22 privity. And we just believe that this
23 will create a whole other set of issues,
24 even as she's a former APJ.

25 JUDGE BAER: Okay. On the 03:21

25

1 indemnification agreement between IProov
2 and Jumio, it's not your position -- that
3 document exists. Am I correct on that?

4 It's not your position that that
5 document does not exist; is that correct? 03:21

6 MS. NGUYEN: Yes, Your Honor. We
7 believe it exists.

8 JUDGE BAER: Okay. Give me just a
9 moment here, if you would.

10 Mr. Stach, if I could just get 03:22
11 you to speak to the issue of third-party
12 subpoena and the potential deposing of what
13 I understand is the former counsel for
14 Jumio.

15 Could you speak to that, whether 03:22
16 you are indeed seeking any third-party
17 information or to depose Ms. Kaiser?

18 MR. STACH: Yes, Your Honor. So
19 Ms. Kaiser provided a declaration in these
20 proceedings. I believe it's Exhibit 1049. 03:22
21 And as a declarant, it would be routine
22 discovery to take -- you know, take the
23 deposition and cross-examine that witness
24 on that testimony. And we think there's
25 good reason to do that. 03:22

26

1 She did make statements that are
2 relevant to third-party interest and
3 privity. And that was a choice that, you
4 know, Jumio made, was to put in that
5 declaration. 03:23

6 JUDGE BAER: Just to keep things
7 rolling -- to keep things rolling here,
8 Mr. Stach, you would be seeking to depose
9 Ms. Kaiser regarding her -- regarding her
10 testimony that she provided. 03:23

11 Is that the only third-party
12 subpoena or third-party deposition or
13 anything like that that you'd be seeking?
14 Is everything else in Jumio's possession?

15 MR. STACH: So I guess I would say I 03:23
16 don't think that the deposition of
17 Ms. Kaiser would be a third party since she
18 did put a declaration --

19 JUDGE BAER: Fair enough. I didn't
20 mean to characterize it that way. 03:23

21 But putting that one aside, is
22 there anything else that's third party or
23 not -- specifically not -- what I mean by
24 that, not in Jumio's possession?

25 MR. STACH: Sure. No, I appreciate 03:23

27

1 that.

2 For IProov, several of our
3 requests to them perfectly overlap with
4 Jumio's. And if Jumio provides the
5 information, then we do not need to get 03:24
6 that information obviously from IProov.

7 There is a small category of
8 information, however, that we do think
9 IProov uniquely has. And what we are
10 hoping to do is narrow -- figure out what 03:24
11 Jumio is able to provide so that we can --
12 if we do take that next step and ask the
13 Board for authorization for the subpoena,
14 it can be as absolutely narrow and focused
15 as possible. 03:24

16 We do --

17 JUDGE BAER: But at this point --
18 Mr. Stach, at this point you are not asking
19 for a subpoena, a third-party subpoena; is
20 that correct? 03:24

21 MR. STACH: We did not request that
22 in the -- in the message to Your Honors.
23 And so, no. But we do have that on our
24 agenda to do --

25 JUDGE BAER: Well, putting aside 03:24

28

1 whether -- I guess what I need to clear up,
2 if we were to authorize a motion, a motion
3 for additional discovery, as part of that
4 motion is FaceTec seeking a third-party
5 subpoena as part of that specific motion? 03:25

6 MR. STACH: We had intended to seek
7 the discovery from Jumio and not separately
8 address the request to IProov. And then
9 after seeing what Jumio provides, we can
10 then -- we were planning to separately 03:25
11 follow up to narrow things.

12 Now, that does stagger things
13 and it does draw things out, which I
14 recognize is also maybe not ideal. And so,
15 you know, we -- we would be interested, if 03:25
16 -- if the Board is so inclined, to you
17 know, consider all of this together as one
18 thing. We are certainly amenable to moving
19 forward in that way.

20 We do think that much of what we 03:25
21 would want from IProov is actually in
22 Jumio's possession and we would not need to
23 seek it from IProov. But we do have a
24 small category of unique information we
25 would like to seek from IProov as well. 03:26

29

1 JUDGE BAER: But you're not doing
2 that yet. You're going to wait and see
3 what happens with Jumio.

4 Do I have that right?

5 MR. STACH: Well, if Your Honors are 03:26
6 willing to entertain discussion about
7 IProov, I would be happy to -- I mean, I do
8 want to request at least that small subset.
9 And we're just trying to figure out what's
10 a way that we can burden the Board the 03:26
11 least with that. And if the answer is
12 let's consolidate and talk about it right
13 now, I'm happy to do that. But I --

14 JUDGE BAER: No, our inclination --
15 our inclination, Mr. Stach, is to not deal 03:26
16 with that. It's not clear to us what
17 information that would be uniquely in
18 IProov's possession that wouldn't be in
19 Jumio's possession.

20 And obviously that brings in a 03:26
21 level of complexity that we'd like to
22 avoid. I haven't heard you identify
23 anything specifically that would be in
24 IProov's possession.

25 So it would certainly be our 03:27

30

1 preference to deal with just Jumio and
2 FaceTec, the two parties here at this
3 point. And if something later comes up,
4 then perhaps we could deal with that.

5 But at this point I haven't 03:27
6 heard anything specific that you're seeking
7 from IProov. So I'm going to go assume.
8 Unless you identify something very
9 specific, that we are not addressing a
10 third-party subpoena at this point. 03:27

11 I'm not asking you to give that
12 issue away forever but at least at this
13 point.

14 MR. STACH: So I do have some very
15 specific information. I'd be happy to -- 03:27
16 so IProov -- just a small bit of history, I
17 guess, is that FaceTec has what they call a
18 Spoof Bounty Program.

19 This software checks if a live
20 person is in front of a phone, for example. 03:27
21 And they have this program where people can
22 sign up and try to trick it or spoof it
23 with things that are not live people.

24 And IProov, we have images
25 because all of the -- the images that are 03:28

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1 captured as part of this liveness process
2 are run through FaceTec servers.

3 We have images of several top
4 executives from IProov, including their CEO
5 and their president and their chief 03:28
6 technology officer, who used fake email
7 addresses and fake names, who spent -- one
8 of them spent about 80 hours using
9 FaceTec's systems under the guise of this
10 Spoof Bounty program. And we have all of 03:28
11 this information that shows that.

12 We have also have what we
13 believe is substantial similarity of
14 IProov's product after they gained access.
15 And we have all these images. We can, you 03:28
16 know, put it into a motion --

17 JUDGE BAER: So Mr. Stach, would this
18 be secondary considerations information?
19 Is that what you're roughly after? Are we
20 talking about copying and commercial 03:29
21 success? I'm not following why this is
22 relevant to the proceedings here.

23 MR. STACH: You've exactly understood
24 it. It is for copying. Because they had
25 access and their product is substantially 03:29

32

1 similar.

2 And the request to them is very
3 similar to the request to Jumio about how
4 Jumio used the information that they gained
5 from FaceTec under the -- under their 03:29
6 license while IProov gained access to
7 FaceTec's systems through the Spoof Bounty
8 Program.

9 And we want to obtain documents
10 showing how they used that in developing 03:29
11 their own substantially similar product.
12 It's copying-related information, Your
13 Honor.

14 JUDGE BAER: This is IProov's copying
15 of FaceTec's technology, correct? 03:29

16 MR. STACH: Yes, Your Honor. Yes,
17 it's two different --

18 JUDGE BAER: IProov's commercial
19 success. So we're talking about commercial
20 success and copying by a third party. 03:30

21 Do I have that correct?

22 MR. STACH: You do, Your Honor.

23 JUDGE BAER: Okay. Petitioner, I'll
24 give you one more chance if you'd like to
25 speak briefly on this before we confer and 03:30

33

1 decide on a way forward.

2 MS. NGUYEN: Yes, Your Honor. I just
3 wanted to raise two more points. Just
4 going back to the indemnity agreement that
5 Mr. Stach talked about earlier, it is our 03:30
6 position that the indemnity agreement, it's
7 really just a mere speculation with respect
8 to whether it would lead to an RPI and
9 privity issue.

10 And even Mr. Stach himself 03:30
11 characterized it today as "perhaps."
12 Perhaps something in there would show RPI
13 or privity.

14 So Your Honor, petitioner
15 believes that this does not qualify. It's 03:30
16 mere speculation based on the Garmin factor
17 towards the Board authorizing additional
18 discovery.

19 And then the last point I just
20 wanted to make is, Your Honor, the 03:30
21 resources here are really being pushed
22 because of the lateness of this request.

23 We are less than one month from
24 the due date of the patent owner's
25 response. And patent owner has waited 03:31

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1 until now to raise the issues. And as you
2 can see from the call today, it's so hard
3 to understand what patent owner is
4 requesting. Their requests have been very
5 broad.

03:31

6 And it's just going to create so
7 many layers of complexity that we'd really
8 like to avoid having -- wasting all these
9 resources from both Board and parties.

10 JUDGE BAER: Great. Thank you,
11 Counsel.

03:31

12 With that I'm going to put the
13 call on hold for just a minute and we're
14 going to confer for a few minutes and we'll
15 be back with you in just a minute. So if
16 the parties would please stand by.

03:31

17 (Whereupon, a recess was taken.)

18 JUDGE BAER: Okay. This is Judge
19 Baer. Just to let the parties know where
20 we're headed on this, we're hopeful that we
21 may be able to get an agreement on this, on
22 these issues here.

03:35

23 As far as the indemnification
24 agreement, it's clear that that is one
25 document that does exist. And we would be

03:36

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1 inclined to grant discovery on that. I'm
2 hoping we might get petitioner to agree to
3 that because that seems to be relevant and
4 fairly specific.

5 Now, as far as payments go, any 03:36
6 payments that have happened in satisfaction
7 of that it seems to me we could probably
8 address that here and just get petitioner
9 to speak on that, whether there have been
10 such payments or whether there haven't been 03:36
11 such payments.

12 And if there have, then that
13 would be something that I think we could
14 hopefully get petitioner to agree to, to
15 produce that information without doing a 03:36
16 back-and-forth on motions.

17 Now, as far as the other
18 things -- the other things in particular
19 with regard to the in -- in particular with
20 regard to IProov and commercial success of 03:37
21 a third party, that sounds quite
22 speculative. And we'd be very unwilling --
23 or disinclined, I should say, to grant a
24 motion on that.

25 That would also fall into -- the 03:37

36

1 same would hold true for just general
2 statements about the closeness of the
3 relationship and statements about
4 correspondence.

5 So as far as goes the request 03:37
6 for deposing Ms. Kaiser, it's true that
7 Ms. Kaiser provided testimony on that.
8 We're not going to force her to do a
9 deposition on that.

10 But be aware that if we have 03:37
11 somebody providing testimony who was then
12 unwilling to sit for deposition about that
13 testimony, we would be inclined of course
14 then to give a patent owner any negative
15 inferences that would possibly come out of 03:37
16 that.

17 So what I'm proposing is if we
18 can't work this out, then we can do it
19 through a motion. But what I'm proposing
20 is perhaps the parties would agree that 03:38
21 petitioner can provide the indemnification
22 agreement, that patent owner is seeking
23 that, petitioner can provide either a
24 statement to us now that there have been no
25 payments in -- from IProov to Jumio in 03:38

37

1 satisfaction of that indemnification.

2 Or that they would provide the
3 payments -- the details as to the payments
4 that they've provided in satisfaction of
5 those -- of the -- of that agreement and 03:38
6 that petitioner will agree to either
7 provide Ms. Kaiser for deposition or
8 understand that we'll be taking any
9 negative inferences that might be
10 appropriate given her inability. 03:38

11 So I'd like to hear from patent
12 owner first. Mr. Stach, is that something
13 -- is that an agreement you might be
14 amenable to?

15 MR. STACH: So I -- I would be 03:39
16 amenable. I would need to check with my
17 client I think on that because we would be
18 giving up requests that we, you know -- I
19 would just need to verify with the clients.
20 But I do think there may be some headway 03:39
21 that can be made under these terms.

22 JUDGE BAER: Thank you.

23 And counsel for petitioner, is
24 this something that you might be amenable
25 to to avoid then the difficulty of motions 03:39

38

1 and potential third-party subpoenas?

2 MS. NGUYEN: Your Honor, we are not
3 in a position at this moment to an
4 agreement to anything. So we would be
5 willing to confer with patent owner
6 regarding this.

03:39

7 JUDGE BAER: So why don't we do this
8 at this point then -- and I understand you
9 all need to take a little time. Why don't
10 we ask the parties to meet and confer about
11 these three things and see if the parties
12 can come to an agreement. And then we can
13 ask you to get back to us on that.

03:39

14 Really the schedule for that is
15 up to you all. We're available. So let us
16 know what you come to. But I'm hopeful
17 that we could -- it seems like this is the
18 kind of thing we can come to an agreement
19 on and not do through motions practice. So
20 that's my hope. So I would encourage the
21 parties to negotiate in good faith on that.

03:40

03:40

22 Let's start with counsel for
23 patent owner. Any specific questions for
24 us or is that clear enough?

25 MR. STACH: I have no specific

03:40

39

1 questions, Your Honor. Thank you.

2 JUDGE BAER: And counsel for
3 petitioner, any questions for us or
4 anything else that we need to address
5 today?

03:40

6 MS. NGUYEN: Yes, Your Honor. You
7 mentioned payments with respect to --
8 sorry. You mentioned payments. Can you
9 provide a little more clarity which
10 payments you're referring to?

03:41

11 JUDGE BAER: Counsel for patent
12 owner, Mr. Stach, indicated that they were
13 seeking information about payments made in
14 satisfaction of an indemnification
15 agreement obviously.

03:41

16 The issue would then be going to
17 control. So this is about the
18 indemnification agreement and payments --
19 any potential payments between -- if there
20 have been any payments from IProov to Jumio
21 in satisfaction of their indemnification
22 agreement.

03:41

23 Those are the -- that would be
24 what we're talking about. But frankly,
25 it's not terribly important how I

03:41

40

1 characterize it. It's what patent owner is
2 seeking and, you know, whether you all can
3 come to an agreement on language relating
4 to that.

5 We're not talking about any 03:41
6 payments between the two. We're talking
7 about payments that are in satisfaction of
8 the indemnification agreement between
9 IProov and Jumio.

10 Is that helpful? 03:42

11 MS. NGUYEN: Yes, that's helpful.
12 Can we ask whether these payments are the
13 types of payments that patent owner is
14 looking for?

15 JUDGE BAER: Sure. 03:42

16 Mr. Stach, do you want to
17 articulate that, what payments you're
18 looking for?

19 MR. STACH: Yes. So it would be just
20 documents sufficient to show any payments 03:42
21 made under the indemnification agreement
22 and, you know, to the extent that there's a
23 note saying what those payments are for.

24 So if it says that it's for
25 these IPRs for reimbursement, then I think 03:42

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1 that would be something we would want. But
2 really it's documents sufficient to show.
3 We're not looking for every last document.
4 We're just looking for, you know, the
5 subset that -- the smallest subset that
6 would provide that information.

03:42

7 JUDGE BAER: Counsel for petitioner,
8 is that sufficiently clear?

9 MS. NGUYEN: That is. Thank you very
10 much.

03:43

11 JUDGE BAER: And again, this is where
12 I just want to encourage the parties, it
13 strikes me that you all can figure out an
14 agreement that will work, that will get you
15 the information you want.

03:43

16 If not, it will involve us and
17 then we will need to provide language and
18 then, you know, coming up with compliance
19 under that, the language that we provide
20 instead of the language you provide. It
21 strikes me as a much better way forward
22 that you all would be able to come up with
23 language that would be reasonable and
24 agreeable without involving us.

03:43

25 So if the parties would give us

03:43

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1 just one more minute, we want to confer for
2 just another minute. I think that's about
3 it. But if you'll give us just another
4 moment, I think we can wrap up. So give us
5 a moment, please. 03:43

6 (Whereupon, a recess was taken.)

7 JUDGE BAER: Okay. I think that's
8 going to wrap it up.

9 Mr. Stach, you provided the --
10 you hired the court reporter; is that 03:44
11 right?

12 MR. STACH: Yes, Your Honor.

13 JUDGE BAER: Mr. Stach, if you could
14 please file a copy of the transcript as an
15 exhibit, if you wouldn't mind. We'd 03:44
16 appreciate that. And I think that's all we
17 have.

18 Let me just ask one more time.
19 Counsel for patent owner, any questions for
20 us? 03:44

21 MR. STACH: No, Your Honor. And we
22 will file that transcript.

23 JUDGE BAER: Great.

24 Counsel for petitioner, any
25 questions for us before we conclude? 03:45

43

1 MS. NGUYEN: No other questions.

2 Thank you, Your Honor.

3 JUDGE BAER: Great. We appreciate

4 the parties' time and we certainly

5 appreciate your willingness to confer in 03:45

6 good faith.

7 There's no need to reach out to

8 us again unless you need us to be involved.

9 But we're hopeful that you all can work

10 this out. So thanks very much. And with 03:45

11 that, we are adjourned.

12 (Time concluded: 3:45 p.m.)

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1 CERTIFICATE OF REPORTER

2

3 I, Janice M. Kocek, Certified Shorthand
4 Reporter, Certified LiveNote Reporter, and
5 Notary Public in and for the State of Illinois,
6 County of Cook, the officer before whom the
7 proceedings were taken, do hereby certify that
8 the foregoing transcript is a true and correct
9 record of these proceedings; that said
10 proceedings were taken in Stenotype notes by me
11 on the 5th day of August, 2025, via telephone
12 audio conference commencing at 3:00 p.m. EST and
13 ending at 3:45 p.m.

14 I further certify that present on
15 behalf of Petitioner Jumio Corp. were Jean
16 Nguyen, Ph.D., Esq., Alex S. Yap, Esq., Mehran
17 Arjomand, Esq., and Chelsea Caylin Kehrner, Esq.,
18 of Morrison & Foerster LLP, and Amanda Bradley,
19 Esq., of Jumio; and present on behalf of
20 Facetec, Inc., were Jason E. Stach, Esq., and
21 Anthony J. Berlenbach, Esq., of Finnegan,
22 Henderson, Farabow, Garrett & Dunner, LLP.

23 I further certify that I am not related
24 to, nor associated with any of the parties or
25 their attorneys, nor do I have any disqualifying

1 interest, personal or financial in the actions
2 within.

3

4

5 Dated this 6th day of August, 2025, at LaGrange
6 Park, Illinois.

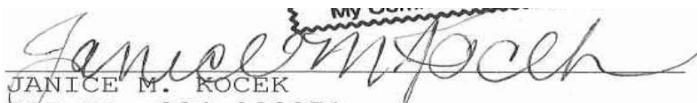
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