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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SINCLAIR PHARMA LIMITED, SINCLAIR PHARMA US, INC., VIORA,
INC., EMA AESTHETICS LTD., AND AESTHETIC MANAGEMENT
PARTNERS, LLC AND AESTHETIC MANAGEMENT PARTNERS, INC.,
Petitioners,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2025-00145

Patent No. 11,865,287

PATENT OWNER'S MOTION FOR ADDITIONAL DISCOVERY

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I. INTRODUCTION

As authorized by the Board, HydraFacial LLC (“PO”) files this Motion directed to seeking additional discovery from Petitioners Sinclair Pharma Limited, Sinclair Pharma US, Inc., and Viora, Inc. (collectively, “Sinclair Petitioners”) on the topic of real parties-in-interest (RPIs). Ex. 2169, 1.

PO’s requested discovery is in the form of eight straightforward Requests for Production (included as Appendix A), all of which satisfy the *Garmin* Factors and the “interests of justice” standard under 37 C.F.R. § 42.51(b)(2)(i). In short, the discovery requests are tailored to proving PO’s contention—already supported by public evidence—that foreign entities associated with the Sinclair Petitioners qualify RPIs and should have been disclosed in the Petition.

The requested discovery is necessary now in view of the Director’s Memorandum on the subject of RPIs published on October 28, 2025 (“RPI Memo”)¹. Under the RPI Memo and its cited precedent, when an RPI is newly identified during an IPR proceeding, the Board must assign a new filing date to the

¹https://www.uspto.gov/sites/default/files/documents/Precedential_designation_of_Corning_Optical_Communications_RF_LLC_v._PPC_Broadband_Inc_Memo_-_Dated_10_28_25.pdf

petition. If, as here, the new filing date falls after the statutory filing deadline set forth in 35 U.S.C. § 315(b), the petition becomes time barred and must be terminated.

The Director stated in the RPI Memo that “[t]he integrity of the PTAB proceedings depends on knowing who is behind a petition—who funds it, directs it, and/or benefits from it.” RPI Memo, 4. PO respectfully requests that the Board grant this Motion and permit this discovery narrowly focused on determining the foreign entities that fund, direct, and/or benefit from this IPR proceeding.

II. BACKGROUND

A. PO’s Pursuit of RPI Discovery

After publication of the RPI Memo on October 28, 2025, PO contacted Petitioners to pursue additional discovery on the RPI issue. *See* Ex. 2169, 9-10. PO anticipated that the parties could reach agreement on the scope of the additional discovery without Board involvement, as permitted by 37 C.F.R. § 42.51(b)(2)(i). *Id.* Initially this appeared possible, as counsel for the Sinclair Petitioners proposed a compromise to allow cross use in this IPR of Sinclair’s documents previously produced to HydraFacial in the ITC litigation, just as Sinclair and HydraFacial had agreed in the district court case. *Id.*, 3-5. However, Sinclair’s counsel later wrote to retract their cross-use proposal, rejecting outright any consideration of discovery on the RPI issue. *Id.* Accordingly, PO sent a joint email to the Board that included PO’s short statement supporting PO’s requested motion and also included Sinclair’s

longer arguments raised in opposing the additional discovery. *Id.*, 1-3. PO is confident this Motion readily addresses Sinclair’s legally and factually flawed arguments.

B. This IPR and Related Litigation

In July 2024, HydraFacial filed a lawsuit in the Central District of California against the Sinclair Petitioners, asserting Sinclair’s Preime system infringes the ’287 Patent at issue in this IPR proceeding. In August 2024, HydraFacial also filed an ITC complaint, which named the Sinclair Petitioners, Petitioner EMA Aesthetics, Ltd. (“EMA”), and others, as respondents. EMA is the manufacturer of the Sinclair Preime system. *See* Section IV.A, *supra*.

This IPR was filed on November 25, 2024 by a collective of six Petitioners. The six Petitioners are the only entities identified in the Petition as RPIs. Pet., 96. For purposes of this Motion, PO focuses on two groups of Petitioners: the Sinclair Petitioners (made up of Sinclair Pharma Limited, Sinclair Pharma US, Inc., and Viora, Inc.) and EMA.

III. LEGAL STANDARD

With issuance of the RPI Memo and designation of *Corning Optical Communications RF, LLC v. PPC Broadband Inc.*, IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (“*Corning Optical*”) as precedential, the Director has restored the RPI analysis to its pre-*SharkNinja* standard. RPI Memo, 1

(“Designating *Corning Optical* as precedential returns the Office to its original and better interpretation of the statute.”). Now, under *Corning Optical*, a petitioner must identify all RPIs at the time of filing the petition. RPI Memo, 4 (“Under *Corning Optical*, the Office will now enforce § 312(a)(2)’s requirement that a petition must ‘identif[y] all real parties in interest.’”).

If a petitioner fails to name all RPIs at the time of filing, the petition has not met the requirements of 35 U.S.C. § 312(a)(2), and, therefore, the petition is incomplete and cannot be considered. *Corning Optical*, 24. The petitioner is permitted to correct the petition to include the RPI, but doing so requires assigning a new filing date to the petition. *Id.* In that circumstance, if the new filing date falls beyond the Section 315(b) statutory deadline for filing a petition, the proceeding must be terminated as time barred. *Id.*, 23-25 (holding a new filing date is required when a petition is corrected with additional RPIs, and a petition is terminated as time barred when the new filing date falls after the one-year statutory filing deadline).

The *Garmin* Factors are evaluated in determining whether a party seeking additional discovery has satisfied the “interests of justice” standard under 37 C.F.R. § 42.51(b)(2)(i). *See Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-

00001 (PTAB Mar. 5, 2013) (Paper 26) (precedential); *see also* PTAB Trial Practice Guide (“TPG”), Section I.F.2.²

IV. THE *GARMIN* FACTORS SUPPORT ADDITIONAL DISCOVERY

Here, the *Garmin* Factors weigh heavily in favor of granting PO’s request for additional discovery. Moreover, as the Trial Practice Guide recognizes, identification of RPIs, as here, is an area where “discovery has been sought frequently” and “[n]arrowly focused requests for additional discovery on these issues may, if appropriate, be permitted.” TPG, Section I.F.2.

A. Factor (1) – More Than a Possibility and Mere Allegation

Regarding Factor (1), the Trial Practice Guide states: “‘The party requesting discovery should already be in possession of evidence’ or reasoning ‘tending to show beyond speculation that in fact something useful will be uncovered.’” TPG, Section I.F.2 (quoting *Garmin*, at 6). The standard for “useful” information in this context is something “favorable in substantive value to a contention of the party moving for discovery.” *Garmin*, at 7. PO meets this standard.

ITC Document Production – RFP No. 1: At a minimum, the Sinclair Petitioners should be required to permit cross use of materials previously produced

² <https://www.uspto.gov/patents/ptab/trial-practice-guide>

to HydraFacial in the ITC case. Indeed, the parties already reached an agreement for cross use in the district court case.

Corporate Entity Relationships – RFP Nos. 2-3: PO understands based on public information that the Sinclair Petitioners are subsidiaries of Huadong Medicine Co. Ltd., a company based in China, which itself is “an affiliate of” China Grand Enterprise, Inc., an investment group headquartered in Beijing, China. *See* Ex. 2170. Additionally, the Sinclair Petitioners have certified in the district court case that “the following listed parties may have a *pecuniary interest* in the outcome of this case”:

Party	Connection/Interest
Sinclair Pharma US, Inc.	Defendant
Sinclair Pharma Ltd.	Defendant
Viora, Inc.	Defendant
Viora Ltd.	Parent Company
Pharma Management Limited	Parent Company
Sinclair Pharma Holdings Limited	Parent Company
Huadong Medicine Aesthetics Investment (Hong Kong) Limited	Parent Company
Huadong Medicine Investment Holding (Hong Kong) Limited	Parent Company
Huadong Medicine Co., Ltd.	Parent Company
EMA Aesthetics, Ltd.	Indemnitor

Ex. 2173, 3. Many of these entities are identified as a “Parent Company” to the Sinclair/Viora defendants and have a “pecuniary interest” in the outcome of the case.

Thus, each of these entities, and likely others in the Huadong/Sinclair family, is a “clear beneficiary that has a preexisting, established relationship with the petitioner,” and thus would qualify as an RPI. *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336, 1351 (Fed. Cir. 2018)(“*AIT*”).

Furthermore, the Sinclair Petitioners state in the same filing with the district court that “[t]hese representations are made to enable the Court to evaluate possible disqualification or recusal.” Ex. 2173, 3. This is an additional reason the PTAB requires proper RPI disclosure at the time of filing the petition—“to assist members of the Board in identifying potential conflicts.” TPG, Section I.D.1.

Pertinent to RFP No. 3, it is also important to the RPI analysis to understand the persons serving as officers and directors in the Sinclair/Huadong corporate entities, to evaluate whether overlapping roles between entities “have blurred sufficiently the lines of corporate separation” to require listing additional related RPIs. *See Corning Optical*, 16-19 (holding undisclosed entities to be RPIs based in part on corporate officers serving in same role across different entities). Here, PO is already aware that the same individual has signed separate Powers of Attorney as CEO for Petitioners Sinclair Pharma Limited, Sinclair Pharma US Inc., and Viora, Inc. *See Paper 1* (Petitioners’ Powers of Attorney). It appears likely that Sinclair/Huadong corporate officers and directors are serving in the same role across multiple corporate organizations, blurring the lines of corporate separation.

Distribution or Supply Agreement(s) – RFP No. 4: PO understands based on public information that a “Sinclair” entity entered into an agreement with EMA to serve as EMA’s exclusive distributor of the Preime system in the United States and other countries. *See* Ex. 2170 (Sinclair press release announcing exclusive distribution agreement with EMA, indicating “Sinclair” is a “fully-owned subsidiary of” China-based Huadong Medicine Co. Ltd.). However, it is unknown based on public information which of the “Sinclair” or “Huadong” entities entered into the exclusive distribution agreement with EMA.

Furthermore, PO understands based on public information that certain Sinclair subsidiaries—namely, High Technology Products, S.L.U. and Viora, Inc.—are involved in importing and distributing the Preime system in the United States. Ex. 2171 (Bill of Lading for Preime system indicating High Tech as shipper and Viora as consignee); Ex. 2172, 23 (Huadong Medicine Co. Ltd.’s annual report indicating Sinclair acquired High Technology Products, S.L.U. and Viora in 2021 and 2022, respectively). Furthermore, Viora, Ltd. is another Sinclair subsidiary based in the Israel and is the parent of U.S.-based Viora, Inc. Of these Sinclair subsidiaries—High Technology Products, S.L.U., Viora, Inc., and Viora Ltd.—only Viora, Inc. has been disclosed as an RPI in this proceeding.

It is vitally important to the RPI analysis to determine which Sinclair/Huadong entity is a party to, or implicated by, the exclusive distribution agreement with EMA

and to evaluate the structure and terms of the agreement. *See Ventex Co., Ltd. v. Columbia Sportswear N. Am., Inc.*, IPR2017-00651, Paper 152 at 10 (PTAB Jan. 24, 2019) (precedential) (RPI determination supported by parties having “a specially structured, preexisting, and well established business relationship” including indemnification and exclusivity arrangements).

Indemnification and Funding – RFP Nos. 5-8: PO understands based on public information that the Sinclair Petitioners have identified EMA as an “Indemnitor” in the district court case. *See* Ex. 2173, 3 (Amended Notice of Interested Parties); Ex. 2174, 20 (Sinclair Pharma Limited’s non-confidential interrogatory response stating, “EMA Aesthetics Management Ltd. is the manufacturer of the Préime DermaFacial system, and has contractual indemnity obligations to Defendants”). However, the scope of EMA’s indemnity obligations are not known based on public information, and it is not known to which Sinclair/Huadong entities EMA owes the indemnity obligations.

Furthermore, it is vitally important to the RPI analysis to determine which Sinclair/Huadong entities are controlling and/or funding the IPR or have the opportunity to do so. *See* RPI Memo, 4 (“The integrity of the PTAB proceedings depends on knowing who is behind a petition—who funds it, directs it, and/or benefits from it.”). Considerations in the RPI analysis include “whether a non-party funds and directs and controls an IPR petition or proceeding; the non-party’s

relationship with the petitioner; the non-party's relationship to the petition itself, including the nature and/or degree of involvement in the filing; and the nature of the entity filing the petition.” *Corning Optical*, 14.

B. Factor (2) – Litigation Positions And Underlying Basis

Factor (2) is neutral , as PO is not seeking Petitioners’ litigation positions or the underlying basis for those positions.

C. Factor (3) – Ability to Generate Equivalent Information by Other Means

As explained above under Factor (1), PO is aware of a substantial amount of information that supports its RPI contention. However, there is a significant amount of information related to this RPI contention that PO cannot generate by other means besides seeking it through discovery from the Sinclair Petitioners, including, e.g., the Sinclair/Huadong corporate structure and corporate officers/directors, distribution or supply agreement with EMA, indemnification provisions, and payment of litigation expenses.

D. Factor (4) – Easily Understandable Instructions

As the Board will recognize, PO’s Requests for Production in Appendix A are in accord with *Garmin*—written in plain English, making them straightforward and easily understandable, and avoiding pages of complicated introductory instructions. *See Garmin*, 6-7.

E. Factor (5) – Not Overly Burdensome to Answer

The Board will also recognize that complying with PO's document requests should not be overly burdensome for the Sinclair Petitioners. Indeed, in an effort to streamline the discovery process and reduce any perceived burden, PO has dropped multiple RFPs it had previously proposed to Petitioners related to production of communications between related entities, and which Sinclair's counsel had complained of as overly burdensome. *See* Ex. 2169, 2 ("Specifically, Patent Owner's requests target communications which would involve e-mail discovery much of which would likely be privileged.").

The RFPs in Appendix A are "sensible and responsibly tailored according to a genuine need." *Garmin*, 14. This is in stark contrast to the burden discussed in *Garmin* that led the Board to decline the requested discovery at issue in that case. *See Garmin*, 14-16 (requested discovery allegedly requiring searching millions of pages of engineering documents and spending dozens of hours responding to interrogatories). The Sinclair Petitioners cannot complain of a burden, particularly as they withdrew their initial proposal for a no-cost solution of allowing cross-use of the ITC documents.

V. CONCLUSION

For the foregoing reasons, PO respectfully requests that the Board grant this Motion for additional discovery.

Dated: December 15, 2025

Respectfully Submitted,

/ Benjamin B. Anger/

Benjamin B. Anger (Reg. No. 62,207)

Attorney for Patent Owner

HydraFacial LLC

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), I certify that on December 15, 2025, a copy of this **PATENT OWNER’S MOTION FOR ADDITIONAL DISCOVERY** was served via the email correspondence address of record for Petitioner’s counsel of record:

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Respectfully Submitted,

Dated: December 15, 2025

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APPENDIX A – REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Documents already produced to HydraFacial in ITC Inv. No. 1416, which are already subject to the parties’ cross-use agreement in *HydraFacial LLC v. Sinclair Pharma Ltd. et al.*, 24-cv-06250 (C.D. Cal.).

REQUEST FOR PRODUCTION NO. 2:

Corporate organizational charts showing the relationship between Huadong Medicine Co. Ltd., Sinclair Pharma Limited, Sinclair Pharma US, Inc., Viora, Inc., and their subsidiaries and affiliates (“Sinclair/Huadong Entities”) at the time of filing the IPR petition.

REQUEST FOR PRODUCTION NO. 3:

Organizational charts sufficient to show the executive leadership (e.g., directors) for the Sinclair/Huadong Entities at the time of filing the IPR petition.

REQUEST FOR PRODUCTION NO. 4:

Distribution or supply agreements between EMA and Sinclair/Huadong Entities regarding the Preime system.

REQUEST FOR PRODUCTION NO. 5:

Agreements between EMA and Sinclair/Huadong Entities related to payment of, or indemnification of, legal expenses in IPR2025-00145 or *HydraFacial LLC f/k/a Edge Systems LLC v. Sinclair Pharma Limited et al.*, 2-24-cv-06250 (C.D. Cal.).

REQUEST FOR PRODUCTION NO. 6:

Documents showing any payments made by EMA to Sinclair/Huadong Entities for legal expenses, or to indemnify for legal expenses, in IPR2025-00145 or *HydraFacial LLC f/k/a Edge Systems LLC v. Sinclair Pharma Limited et al.*, 2-24-cv-06250 (C.D. Cal.).

REQUEST FOR PRODUCTION NO. 7:

Documents sufficient to show which Sinclair/Huadong Entity or Entities pays the legal expenses in IPR2025-00145 and *HydraFacial LLC f/k/a Edge Systems LLC v. Sinclair Pharma Limited et al*, 2-24-cv-06250 (C.D. Cal.).

REQUEST FOR PRODUCTION NO. 8:

Communications between EMA and Sinclair/Huadong Entities related to payment of, or indemnification of, legal expenses in IPR2025-00145 or *HydraFacial LLC f/k/a Edge Systems LLC v. Sinclair Pharma Limited et al*, 2-24-cv-06250 (C.D. Cal.).