

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAIHONG DISPLAY DEVICES CO., LTD.,
Petitioner,

v.

CORNING INCORPORATED,
Patent Owner.

IPR2025-00439
Patent 7,851,394

Before CHRISTOPHER M. KAISER, AVELYN M. ROSS, and
DAVID COTTA, *Administrative Patent Judges*.

COTTA, Administrative Patent Judge.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5

On March 21, 2025, Petitioner contacted the Board by email to request authorization to file a motion to replace the declaration of Dr. Ashutosh Goel with that of another declarant because Dr. Goel was “no longer willing to be an expert for [Petitioner].” Ex. 3001. In subsequent email correspondence, Patent Owner agreed that it would not oppose Petitioner’s request provided that “only the biographical information is updated in the declaration, and none of the arguments are changed.” *Id.* We requested that Petitioner advise whether it was amenable to this condition. *Id.* Petitioner responded that it would “not raise any new art or new arguments of unpatentability beyond those set forth in the as-filed Petition and Dr. Goel’s declaration in support thereof.” *Id.* To avoid any ambiguity, in an April 1, 2025 email, we stated:

Petitioner states that it “will not raise any new art or new arguments of unpatentability beyond those set forth in the as-filed Petition and Dr. Goel’s declaration in support thereof.” We understand this to mean that the replacement declaration will be substantively identical to that in the originally filed Goel Declaration. With that understanding of Petitioner’s statement, we understand that Patent Owner does not object to Petitioner replacing Dr. Goel’s declaration. Based on these understandings, we treat Petitioner’s email as a Motion to Replace the Declaration of Professor Goel and we GRANT Petitioner’s motion.

Id. We further instructed, “[i]n the event the above understandings are incorrect, for example because replacing Dr. Goel’s declaration requires substantive changes, . . . the parties are instructed to provide their availability for a conference call with the Board.” *Id.* Petitioner responded by stating “Petitioner confirms the Board’s understandings.” *Id.* Petitioner did not request a conference call with the Board.

On April 4, 2025, Petitioner filed the Substitute Declaration of Dr. Frank Ernst. Ex. 1003. On April 18, 2025, Patent Owner contacted the Board by email, requesting authorization to file a motion to strike portions of Dr. Ernst's Declaration on the basis that the Declaration exceeded the scope of the Board's authorization. Ex. 3002. On April 25, 2025, we held a conference call with the parties to discuss Patent Owner's request. During the call, counsel for Patent Owner described, at a high level, a number of differences between the Declaration of Dr. Ernst and the Declaration of Professor Goel. Counsel for Patent Owner argued that these changes were substantive and, thus, beyond the authorization we provided for filing a replacement brief. Counsel for Petitioner argued that the changes Patent Owner identified were not substantive and, thus, consistent with our authorization.

In the conference call, we verbally authorized Patent Owner's requested motion. Patent Owner indicated during the call that it would file its fifteen-page motion on April 25. We authorized Petitioner to file a fifteen-page opposition no later than May 2.

ORDER

In consideration of the foregoing, it is hereby ORDERED that Petitioner is authorized to file a Motion to Strike of not more than fifteen (15) pages addressing allegedly substantive differences between the Declaration of Dr. Goel and the Declaration of Dr. Ernst. Patent Owner's Motion shall be filed on April 25, 2025. Petitioner is authorized to file an Opposition of not more than fifteen (15) pages. Petitioner's Opposition shall be filed on or before May 2, 2025.

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