

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 May 23, 2025, Caihong Display Devices Co., Ltd. (“Petitioner”) emailed the Board requesting authorization to file a motion for sanctions against Corning Incorporated (“Patent Owner”). Ex. 3003. In a conference call on May 29, 2025, we heard argument from both parties on whether we should grant Petitioner’s request. For the reasons discussed below, we deny Petitioner’s request for authorization to file a motion for sanctions.

We have authority to “impose sanctions against a party for misconduct.” 37 C.F.R. § 42.12. Misconduct includes, among other things: “failure to comply with an applicable rule or order of the proceeding,” “misrepresentation of a fact,” and “abuse of process.” *Id.* The imposition of sanctions, particularly a sanction of loss of patent rights, is not a routine event. *See, e.g., Abrutyn v. Giovanniello*, 15 F.3d 1048, 1053 (Fed. Cir. 1994) (“[A] sanction which may sound the death knell for important [patent] rights and interests . . . should be used as a weapon of last, rather than first, resort.” (internal quotation marks and citations omitted)). The bar for authorizing the filing of a motion of sanctions generally is high. *See Anderson Corp. v. GED Integrated Solutions, Inc.*, DER2017-00007, Paper 58 at 3 (PTAB Apr. 23, 2019) (Order denying respondent’s request for authorization to file a motion for sanctions)

During the call, Petitioner identified two categories of conduct that it contends merit sanctions: 1) conduct that Petitioner alleges constitutes “witness tampering,” and 2) statements that Patent Owner made to the Board that Petitioner characterizes as “misrepresentations.” To remedy this alleged misconduct, Petitioner asserts that we should deem the challenged patent unpatentable. We address each category of misconduct in turn.

We begin by considering the conduct Petitioner identified as “witness tampering.” During the conference call Petitioner asserted that Patent Owner engaged in “witness tampering” by reaching out to colleagues and students of Dr. Goel and informing them that it would cease its collaboration with Dr. Goel. When we asked Petitioner’s counsel how such conduct rose to the level of sanctionable conduct and, more specifically whether there was a problem with the language used to convey that collaborations would cease, Petitioner stressed the economic importance of collaboration with industry for college professors. According to Petitioner, Patent Owner’s cessation of collaborations amounted to threatening Dr. Goel’s livelihood. Petitioner explained that the alleged misconduct lay in Patent Owner tying continued collaboration to Dr. Goel’s testimony.

Patent Owner responded by pointing out that the collaboration between Patent Owner and Dr. Goel was entirely voluntary and representing that such collaboration was paused only for the duration of the litigation between the parties. Patent Owner directed us to Exhibit 2002, as reflecting the conduct at issue. Exhibit 2002 is a letter from Patent Owner’s litigation counsel (not counsel in this proceeding) to the Dean of Rutgers Engineering Department. In the letter, Patent Owner explains that it is currently involved in litigation with Patent Owner before the U.S. International Trade Commission where Patent Owner asserts not only that Petitioner infringes its patents, but also that Petitioner stole its trade secrets. Ex. 2002. The letter states that in order to “protect its confidential information from potential disclosure” Patent Owner was directing its employees that “they should not further communicate with Prof. Goel, his students, or other members of the

[Department of Materials Science and Engineering] without [Patent Owner's] express permission.” *Id.* Patent Owner further stated that it would not “permit such persons to enter Corning premises where confidential information may reside without specific prior approval.” *Id.*

Petitioner’s allegation that Patent Owner engaged in “witness tampering” is insufficient to support authorization to file a motion for sanctions. Regardless of its economic importance to Dr. Goel, the work Dr. Goel did for Patent Owner was part of a voluntary collaboration. During the call we asked Petitioner for legal authority supporting that cessation of a voluntary collaboration was sanctionable. Despite having already drafted the motion,¹ Petitioner was unable to identify any legal authority supporting that such conduct merited sanctions. This alone is sufficient basis upon which to deny authorization for briefing on sanctions, at least for the conduct relating to cessation of collaborations. Moreover, under the circumstances, Patent Owner’s reluctance to continue working with Dr. Goel, and its decision to limit Dr. Goel’s access to Patent Owner and its confidential information going forward, seems both reasonable and foreseeable.

We now consider Petitioner’s allegation that Patent Owner made sanctionable misrepresentations to the Board. During the call, Petitioner identified two alleged misrepresentations: 1) Patent Owner’s statement that

¹ Petitioner represented during the call that it had complied with 34 C.F.R. § 42.11(d)(2) which requires that “at least 21 days prior to seeking authorization to file a motion for sanctions, the moving party must serve the other party with the proposed motion.” Thus, Petitioner must already have drafted the motion.

it continued funding projects and cooperating on papers, and 2) Patent Owner's statement that Dr. Goel was in possession of confidential information.

Before we consider the individual statements at issue, we consider the context in which they were made. Both alleged misrepresentations were made in an email responding to Petitioner's request for authorization to file a replacement declaration after Dr. Goel indicated that he was no longer willing to work with Petitioner. *See* Ex. 3001. Particularly given that Patent Owner did not oppose Petitioner's request for authorization to file a replacement declaration, neither alleged misrepresentation had any material impact on any substantive or procedural issue before the Board. *Id.* Rather, the alleged misrepresentations and the statements by Petitioner to which they responded, seem to reflect efforts to color the Board's perceptions of the parties. In this regard, we advised the parties that we would "not consider any of the arguments or assertions in the below email chain in reaching any substantive decisions in this case." *Id.*² Thus, the context in which the alleged misrepresentations were made would seem to provide little reason to fabricate.

Turning now to the first alleged misrepresentation that Petitioner identified, Petitioner asserts that Patent Owner's statement that it "continued funding and cooperating on papers (including with [Dr. Goel's] students) and presentations" was a misrepresentation. *Id.* On the call, however,

² We will similarly not consider the factual allegations reflected in this decision in reaching any substantive decisions in this case.

Patent Owner explained that this statement was accurate because its collaborations with Dr. Goel and Rutgers were only paused and it expected collaborations to resume when the litigation is done. In view of this explanation, even assuming Petitioner is correct that *all* current collaborations have stopped, Patent Owner's statement at worst reflects the use of imprecise language. We do not deem this sufficient to merit briefing on sanctions.

The second alleged misrepresentation that Petitioner identified was Patent Owner's statement that Dr. Goel had "knowledge of Corning confidential information." *Id.* Petitioner contends that this proceeding does not involve confidential information and that Patent Owner has not identified any specific information in Dr. Goel's possession. During the call, Petitioner further asserted that Dr. Goel had not signed a confidentiality agreement. Patent Owner responded that persons entering Patent Owner's facilities, including Dr. Goel, were required to sign a confidentiality agreement. In addition, Patent Owner responded that although this proceeding may not involve Patent Owner's confidential information, it was concerned about allowing an adverse party, like Dr. Goel, access to confidential information going forward. Particularly given Patent Owner's concerns about granting Dr. Goel access to confidential information going forward, and Patent Owner's representation that Dr. Goel had, in the past, signed a confidentiality agreement to gain access to a facility containing confidential information, the dispute over whether Dr. Goel has present "knowledge of Corning confidential information" is not sufficient to merit briefing on sanctions.

In sum, when considering the representations of the parties during the conference call and the filings cited in this decision, Petitioner has not demonstrated that the circumstances here meet the high bar for authorizing the filing of a motion for sanctions.

ORDER

It is ORDERED that Petitioner's request for authorization to file a motion for sanctions is denied

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FOR PETITIONER:

Daniel Pereira
Donald McPhail
MERCHANT AND GOULD PC
dpereira@merchantgould.com
dmcphail@merchantgould.com

FOR PATENT OWNER:

Jason Eisenberg
Kristina Kelly
Chase Hammond
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
jasone-ptab@sternekessler.com
kckelly-ptab@sternekessler.com
chammond-ptab@sternekessler.com