

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

CM HK LIMITED,
Patent Owner

IPR2025-01023
Patent 10,852,846

PATENT OWNER’S MOTION FOR ADDITIONAL DISCOVERY

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I. INTRODUCTION

Patent Owner CM HK seeks limited discovery on a threshold statutory issue: whether the National Pension Service of South Korea (“NPS”), a foreign-government-controlled entity, is an undisclosed real party in interest (“RPI”). The existing record establishes more than a reasonable basis to investigate that question, and the relevant facts are uniquely within Petitioner’s possession. Patent Owner files this motion pursuant to the Board’s Order Authorizing Motion for Additional Discovery. Paper 27.

II. ARGUMENT

A. PETITIONER MUST PROVE IT NAMED ALL RPIS.

Petitioners must identify all real parties in interest (“RPI”) in their petitions. 35 U.S.C. § 312(a)(2); *Corning Optical Commc’ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Paper 68 at 23 (PTAB Aug. 18, 2015). And if Patent Owner produces “*some* evidence that tends to show that a particular third party should be named a real party in interest,” then it is “Petitioner’s burden to bring forth evidence or arguments demonstrating that it had named *all* RPIS—and that none were foreign governments or entities a foreign government had the ability to control.” *Tianma Microelectronics Co., Ltd. v. LG Display Co., Ltd.*, IPR2025-01579, Paper 12 at 9-10 (Director Decision Mar. 18, 2026) (“*Tianma*”); *TikTok Inc. v. CellSpin Soft, Inc.*, IPR2024-00757, Paper 42 at 5 (Director Decision Mar. 30, 2026) (“*Tik Tok*”);

Worlds Inc. v. Bungie, Inc., 903 F.3d 1237, 1243-44 (Fed. Cir. 2018).

B. RPI ANALYSIS IS HIGHLY FACT DEPENDENT.

Determining whether a non-party is an RPI is a “highly fact-dependent question” requiring a flexible, equitable inquiry into “practical” realities, including whether a non-party is a clear beneficiary with a preexisting relationship to the petitioner. *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336, 1351 (Fed. Cir. 2018). The “heart of the inquiry” is whether the petition was filed at a non-party’s behest. *Uniloc 2017 LLC v. Facebook Inc.*, 989 F.3d 1018, 1027-28 (Fed. Cir. 2021).

C. FOREIGN GOVERNMENTS CANNOT BE PETITIONERS OR RPIS.

The Director recently held that foreign governments cannot participate in American Invent Acts (“AIA”) proceedings as either petitioners or RPIS based on the Supreme Court’s *Return Mail* decision. *Tianma*, IPR2025-01579, Paper 12 at 4-5; *TikTok Inc. v.* IPR2024-00757, Paper 42 at 3-4.

D. NPS IS CONTROLLED BY THE SOUTH KOREAN GOVERNMENT

NPS is one of the world’s largest pension funds, with approximately KWR 1,213 trillion in assets under management, which is approximately \$900 billion USD. Ex. 2044 at 3. It was established in 1988 “to strengthen and safeguard the retirement security of the people of the Republic of Korea” and it serves “more than 21.98 million contributors and 7.16 million beneficiaries as of December 31, 2024.” Ex. 2044 at 3.

One of NPS’s guiding investment principals is to “[t]ake into account the

spillover impact on the national economy and domestic financial market, given the sheer size of the Fund and the objectives of the National Pension Plan targeting the entire nation.” Ex. 2044 at 34.

NPS is controlled by the South Korean government. The National Pension Fund Management Committee (“FMC”), which manages the fund, is chaired by the Minister of Health and Welfare and is made of six government officials (including the chair) and 14 other persons representing employers, employees, and individuals. Ex. 2044 at 41-42. The Fund Management Plan is subject to governmental review and approval by the Ministry of Health and Welfare, the Ministry of Economic and Finance, the President, and National Assembly of South Korea. Ex. 2044 at 41.

Accordingly, NPS operates as an instrumentality of the South Korean government.

E. NPS PARTICIPATES IN LITIGATION-RELATED DECISIONS.

NPS possesses the ability to influence Samsung’s strategic decision-making, potentially including decisions relating to litigation and administrative proceedings. NPS holds approximately 7.75% of Samsung's outstanding ordinary shares. Ex. 2045 at 2.

NPS identifies five types of risk affecting its portfolio value, including Legal Risk. Ex. 2044 at 43-44, 52. NPS states “risks are closely monitored and controlled at all times” by NPS. Ex. 2044 at 52. Under its “Guideline for Stewardship

Activities,” NPS lists the “Initiation of Litigation”:

Guideline for Stewardship Activities for National Pension Fund
PART 1 (General Provisions): Purpose, Scope of Application, Basic Principles, Stewardship Activities, Decision Making Body
PART 2 (Responsible Investment): Target Companies, Non-financial Factors (ESG), Incorporation Method
PART 3 (Exercise of Shareholder Rights)
- Voting (Target Companies, Basic Principles, Specific Voting Guidelines, etc.)
- Stewardship Activities on Focus Areas (Confidential Dialogues, Selection of Confidential/Public Focus List, Open Letters, Shareholder Proposals, etc.)
- Stewardship Activities on Unexpected Concerns (Target Companies, Provisions Applicable Mutatis Mutandis)
- Initiation of Litigation (Determination on Initiation of Litigation, Request for Litigation, Initiation of Damage Claim, Provisions Applicable Mutatis Mutandis, etc.)

Ex. 2044 at 53. And NPS utilizes “Confidential Dialogues” to “encourage the company to establish action plans and countermeasures to enhance shareholder value” for both Focus Areas and Unexpected Concerns. Ex. 2044 at 60.

Thus, NPS’s framework confirms that it may evaluate and engage in litigation-related decisions affecting portfolio companies such as Samsung, including through non-public engagement mechanisms. Taken together, these facts establish a reasonable basis to investigate whether NPS influenced, *or had the ability to influence*, Petitioner’s decision to file or maintain this IPR.

III. PATENT OWNER’S REQUESTS SATISFY THE *GARMIN* FACTORS.

Additional discovery is warranted where the interests of justice require it, including where a patent owner establishes more than a mere possibility that useful information will be uncovered. 37 C.F.R. § 42.51(b)(2); *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 26 at 7 (PTAB Mar. 5, 2013). Patent

Owner's requested discovery meets those requirements and is narrowly focused on whether NPS is a foreign-government RPI:

Request for Production No. 1: Documents and communications (including emails and other electronic communications) between Petitioner (including attorneys) and NPS relating to any United States litigation, including, but not limited to: (i) IPR2025-01023; (ii) IPR2025-01071; (iii) *Samsung Electronics Co. Ltd. et al v. CM HK, Ltd.*, No. 4:24-cv-06567 (N.D. Cal.); or (iv) the patents asserted in those matters.

Request for Production No. 2: Documents sufficient to show the nature and scope of any rights, authority, or involvement of NPS in influencing, directing, or participating in Petitioner's decisions relating to United States litigation or administrative proceedings.

These requests are proportional and warranted in the interests of justice under 37 C.F.R. § 42.51(b)(2)(i) and they satisfy the *Garmin* factors. First, the evidence above demonstrates that NPS can influence Petitioner's conduct in this proceeding, thereby establishing more than a mere possibility that the requested discovery will uncover useful information. Second, Patent Owner does not seek litigation positions in this or any district court action. Third, the information is uniquely within Petitioner's possession and unavailable elsewhere. Fourth, the requests are straightforward. Finally, they are not unduly burdensome.

Accordingly, the Board should grant this motion.

Respectfully Submitted,

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CERTIFICATE OF SERVICE 37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the above document was served April 24, 2026 by filing this document through the Patent Trial and Appeal Case Tracking System (P-TACTS) as well as delivering a copy via electronic mail to the following practitioners of record for Petitioners:

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April 24, 2026

Date