

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QINGQING DUAN,
Petitioner,

v.

PATHWAY IP LLC,
Patent Owner.

IPR2025-01231
Patent 7,841,729 B2

Before BART A. GERSTENBLITH, KEVIN W. CHERRY, and
MARY C. HOFFMAN, *Administrative Patent Judges*.

HOFFMAN, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Motion for Additional Discovery
37 C.F.R. §42.51(b)(2)(i)

I. INTRODUCTION

Having received prior authorization during a teleconference with the Board on May 21, 2026, Patent Owner filed a Motion for Additional Discovery. Paper 23 (“Motion” or “Mot.”). Petitioner¹ filed an Opposition to Patent Owner’s Motion. Paper 27 (“Opposition” or “Opp.”).

Patent Owner seeks additional discovery under 37 C.F.R. § 42.51(b)(2) related to the question of whether all real parties in interest have been identified as required by 35 U.S.C. § 312(a)(2). *See generally* Mot.; Ex. 2042 (“Patent Owner’s Proposed Requests for Production”). In its Opposition, counsel for Petitioner agrees to make Ms. Duan available for deposition to address this issue and is willing to produce materials responsive to Patent Owner’s Requests (Ex. 2042) to the extent such materials exist, with the exceptions of privileged or otherwise protected materials. Opp. 1–2.

For the reasons below, Patent Owner’s Motion is granted.

II. DISCUSSION

Pursuant to 37 C.F.R. § 42.51(b)(2)(i), “[t]he parties may agree to additional discovery between themselves. Where the parties fail to agree, a party may move for additional discovery. The moving party must show that such additional discovery is in the interests of justice The Board may specify conditions for such additional discovery.”

¹ Contemporaneously with this Order, we issue an order granting Petitioner’s Motion to Substitute Ms. Qingqing Duan for Shenzhen Ronglida Technology Co. Ltd. (“Ronglida”) as Petitioner in this proceeding. Thus, references to Petitioner refer to Ms. Duan.

In determining whether a request for additional discovery should be granted under the “interests of justice” standard, we are guided primarily by the factors set forth in *Garmin International, Inc. v. Cuozzo Speed Technologies LLC*, IPR2021-00001, Paper 26 (PTAB Mar. 5, 2013) (Decision on Motion for Additional Discovery) (designated precedential). *See, e.g.*, Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019), § I.F.2 (available at <https://www.uspto.gov/patents/ptab/trial-practice-guide>). The factors are (1) whether there is more than a mere possibility or allegation that something useful will be found; (2) whether the request seeks the other party’s litigation positions; (3) the ability to generate equivalent information by other means; (4) whether the instructions are easily understandable; and (5) whether the request is overly burdensome. Although, as noted above, Petitioner does not oppose Patent Owner’s additional discovery requests, we address the *Garmin* factors for completeness.

More Than a Possibility and Mere Allegation

Patent Owner contends that there is more than a possibility or mere allegation that the requested discovery will yield useful information because, *inter alia*, Patent Owner’s private investigator found that Ms. Duan (Ronglida’s sole shareholder and successor-in-interest) is an employee of Shenzhen Neewer (“Neewer”) and the designated contact person² for

² The link provided in the investigative report (Ex. 2041) at page 7, footnote 3 does not appear to be functional. According to the investigative report, Xingyingda’s corporate filings demonstrate that Ms. Duan is the designated contact person for Xingyingda as of December 31, 2025. Patent

Neewer’s wholly owned subsidiary Shenzhen Xing Ying Da (“Xing Ying Da” or “Xingyingda”), which Patent Owner alleges are unnamed real parties in interest. Mot. 4–5 (citing Exs. 2040, 2041, 1021), 6–7. Patent Owner argues that these findings “tie the named Petitioner [Ronglida] to Shenzhen Neewer through Duan and through the shell structure of [Ronglida].” *Id.* at 6.

We find, and Petitioner does not argue otherwise (*see generally* Opp.), that Patent Owner has established that there is more than a possibility or mere allegation that the requested discovery will yield useful information.

Litigation Positions and Underlying Basis

Patent Owner’s requested discovery is related to who is funding or directing this proceeding and does not seek to obtain information regarding Petitioner’s litigation positions or the underlying basis thereof.

Mot. 7. Thus, we find that this factor favors Patent Owner’s request.

Ability to Generate Equivalent Information by Other Means

We find that this factor favors Patent Owner’s request. In particular, we find that Patent Owner cannot generate equivalent information by other means because the information sought (i.e., information related to who is funding or directing this proceeding) is known by Ronglida/Ms. Duan and not otherwise available to Patent Owner.

Easily Understandable Instructions & Not Overly Burdensome to Answer

We find that these factors favor Patent Owner’s request, because Petitioner appears to understand what is requested in Exhibit 2042 and has

Owner may wish to submit evidence of Xingyingda’s corporate filings as an exhibit.

agreed to “produce responsive materials, to the extent such materials exists, but will not produce privileged or otherwise protected materials absent an explicit order from the Board” and make Ms. Duan available for deposition. Opp. 1–2.

Our Order granting Patent Owner’s Motion does not compel production of privileged documents or attorney work-product. To the extent Petitioner withholds responsive material on one of these bases, Petitioner shall indicate such on a privilege log. *See Intel Corp. v. Alacritech, Inc.*, IPR2018-00226, Paper 36 (PTAB Nov. 19, 2018).

Furthermore, although this decision pertains to materials exchanged between the parties, to the extent Petitioner or Patent Owner seeks to file any information deemed confidential in this proceeding, the filing party should file the document(s) under seal and include a motion to seal and motion for protective order along with the proposed protective order. *See* 37 C.F.R. §§ 42.14 (“Public availability”), 42.54(a) (“Protective order”).

Summary

Accordingly, for the reasons explained above, we find that Patent Owner has established that the requested additional discovery is in the interests of justice.

III. ORDER

Accordingly, it is:

ORDERED that Patent Owner’s Motion for Additional Discovery (Paper 23) is granted;

FURTHER ORDERED that Petitioner shall make Ms. Duan available for deposition, produce other materials responsive to the requests set forth in

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Exhibit 2042 to the extent they exist, and provide a privilege log if any responsive materials are withheld as indicated above; and

FURTHER ORDERED that Petitioner and Patent Owner are directed to meet-and-confer and propose a schedule for this discovery and briefing on a motion to terminate and opposition, each limited to ten (10) pages.

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