

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K. J. PRETECH CO., LTD.,
Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,
Patent Owner.

Cases¹

IPR2015-01866 (Patent 8,215,816)

IPR2015-01867 (Patent 7,537,370)

IPR2015-01868 (Patent 7,434,974)

Before THOMAS L. GIANNETTI, MIRIAM L. QUINN, and
BEVERLY M. BUNTING, *Administrative Patent Judges*.

BUNTING, *Administrative Patent Judge*.

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

¹ This Order addresses issues that are the same in each case. Therefore, we exercise our discretion to issue one Decision to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

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INTRODUCTION

On November 17, 2015, a telephone conference call was held between respective counsel for Petitioner, K. J. Pretech Co., LTD., and Patent Owner, Innovative Display Technologies LLC, and Judges Bunting, Giannetti, and Quinn. The conference call was initiated by the Board in response to an email communication received from Patent Owner's counsel.

MOTION FOR ADDITIONAL DISCOVERY

Patent Owner requests, and Petitioner opposes, authorization to file a motion for additional discovery limited to the issue of whether LG Display or LG Electronics and Petitioner are privies. Patent Owner represented that it learned recently from the related district court litigation involving these patents of evidence of a supply agreement between Petitioner and LG Display or LG Electronics that may contain indemnification obligations. Patent Owner also referenced certain admissions of payment made in conjunction with discovery responses that may likewise substantiate its contentions. Patent Owner acknowledged that Petitioner is not a party to the aforementioned district court proceedings, and that these documents are under a protective order. Petitioner disagreed with Patent Owner's contentions, arguing that Patent Owner contentions are clear speculation and that Patent Owner already knows the answers it seeks.

After hearing the respective positions of the parties, the panel conferred and concluded that additional briefing is warranted. Patent Owner is authorized to file a Motion for Additional Discovery limited to the supplier agreement and referred-to discovery response admissions, of no

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more than 10 pages due no later than Tuesday, December 1, 2015. In particular, Patent Owner's motion should address what evidence shows that the referred to supply agreement and discovery response admissions from the related district court proceeding are relevant to determining whether LG Display or LG Electronics and Petitioner are privies. In addition, Patent Owner should specify clearly the discovery response admissions it seeks to discover. Petitioner is authorized to file an Opposition to the Motion, also of no more than 10 pages, due no later than Tuesday, December 8, 2015.

Patent Owner is cautioned that a motion for additional discovery is unlikely to be granted if it is unduly broad, and should reflect consideration and explanation of the five *Garmin* factors when discussing whether the additional discovery at issue is "necessary in the interest of justice." 35 U.S.C. § 316(a)(5); 37 C.F.R. § 42.51(b)(2); *Garmin Int'l, Inc. et. al. v. Cuozzo Speed Techs. LLS, Case IPR2012-00001*, slip op. at 5–7 (PTAB March 13, 2013) (Paper 26).

During the call, the parties were directed to meet and confer to work out any confidentiality issues regarding the requested discovery response admissions and supplier agreement.

ORDER

Accordingly, it is

ORDERED that Patent Owner is authorized to file a motion for additional discovery by December 1, 2015, limited to 10 pages;

FURTHER ORDERED that Petitioner is authorized to file an opposition by December 8, 2015, limited to 10 pages;

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FURTHER ORDERED that no reply is authorized; and

FURTHER ORDERED that the parties meet and confer and work out any confidentiality issues regarding the requested discovery response admissions and supplier agreement.

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