

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC. ET AL.
Petitioner

v.

CUOZZO SPEED TECHNOLOGIES LLC
Patent Owner

Case IPR2012-00001
Patent 6,778,074

Before MICHAEL P. TIERNEY, *Lead Administrative Patent Judge*, JAMESON LEE, and JOSIAH C. COCKS, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

ORDER
MOTION FOR ADDITIONAL DISCOVERY
37 C.F.R. § 42.51

This morning, patent owner requested a telephone conference call to discuss its discovery requests to the petitioner. The papers accompanying that request are attached to this communication. The conference call will be held tomorrow morning, February 14th, 2013 at 11:00 AM.

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Under the Leahy-Smith America Invents Act, discovery is available for the deposition of witnesses submitting affidavits or declarations and for “what is otherwise necessary in the interest of justice.” 35 U.S.C. § 316(a)(5); see also 37 C.F.R. § 42.51(b)(2)(“The moving party must show that such additional discovery is in the interest of justice”). That is significantly different from the scope of discovery generally available under the Federal Rules of Civil Procedure.

During the scheduled conference call, counsel for patent owner should be prepared to explain specifically why each item in patent owner’s proposed discovery request meets the applicable standard of discovery in this proceeding. In particular, with respect to each item of the proposed discovery request, counsel for patent owner should be prepared to indicate the full extent the patent owner, from its own perspective, already has the substantive information requested. The patent owner’s own answers will provide a foundation on which to evaluate the questions of need and interest of justice.

In the interest of streamlining the issues, the patent owner is urged to reconsider the scope of its proposed discovery before the conference call and modify its list of requested items accordingly.

It is

ORDERED that a telephone conference call will be held tomorrow, February 14, 2013, at 11:00 AM to discuss any remaining items of proposed discovery still desired by the patent owner.

Case IPR 2012-00001
Patent 6,778,074

For PETITIONER

Jennifer C. Bailey
HOVEY WILLIAMS LLP
jcb@hoveywilliams.com

For PATENT OWNER

John R. Kasha
Kasha Law LLC
john.kasha@kashalaw.com

Cabrach J. Connor
Reed & Scardino LLP
cconnor@reedscardino.com

February 11, 2013

Via Electronic Mail

Jennifer C. Bailey
Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
84 Corporate Woods
Overland Park, KS 66210
jbailey@hoveywilliams.com

Re: *Garmin International, Inc., et al. v. Cuozzo Speed Technologies LLC*;
Case IPR2012-0001 (JL); Patent No. 6,778,074

Dear Jennifer:

I write on behalf of patent owner Cuozzo Speed Technologies LLC seeking Petitioner's agreement to present a witness or witnesses to testify on behalf of the Petitioner at a mutually agreeable location and date. The topics of the examination would relate to matters at issue in the IPR. These include, generally: (i) Garmin's efforts to design, develop, and commercialize a speed limit warning feature; (ii) Garmin's discussions with the inventor G. Cuozzo prior to CST's lawsuit; (iii) Garmin's marketing of the speed alert/warning feature; and (iv) Garmin's views of the success of the speed alert /warning feature in the marketplace.

Please let me know if Petitioner will agree to present a witness or witnesses and some available dates for the deposition. If Petitioner will not, please let me know when you are available for a conference call with the Board so CST can formally request this additional discovery.

Sincerely,

/s/ Cabrach J. Connor

Cabrach J. Connor

cc: John Kasha; David Skeels

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**CUOZZO SPEED TECHNOLOGIES LLC'S FIRST SET
OF INTERROGATORIES TO GARMIN (NOS. 1-19)**

Patentee Cuozzo Speed Technologies LLC (“CST”) requests Petitioners
Garmin International, Inc. and Garmin USA, Inc. serve written responses to these
Interrogatories to CST’s lead and back-up counsel within 14 days.

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