

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BROAD OCEAN TECHNOLOGIES, INC.,  
Petitioner,

v.

REGAL BELOIT AMERICA, INC.,  
Patent Owner.

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Cases IPR2017-00802 and IPR2017-00803  
Patents 5,954,476 and 6,318,358 B1

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Before MITCHELL G. WEATHERLY, TIMOTHY J. GOODSON, and  
SCOTT C. MOORE, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

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

I. DISCUSSION

On June 30, 2017, the panel entered an order instructing the parties to provide additional briefing on the following issues:

(1) whether Broad Ocean Motor, LLC (“BOM”) should be named as a real party in interest;

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(2) whether Broad Ocean Technologies, LLC (“BOT”) should be named as a real party in interest; and

(3) whether the failure to name either entity as a real party in interest precludes institution of *inter partes* review in either IPR2017-00802 or IPR2017-00803.

IPR2017-00802, Paper 9; IPR2017-00803, Paper 7. Petitioner filed its brief in each proceeding on July 7. IPR2017-00802, Paper 10; IPR2017, Paper 8 (collectively “Pet. Reply”). Patent Owner filed its brief in each proceeding on July 14. IPR2017-00802, Paper 11; IPR2017, Paper 9 (collectively “PO Surreply”).

Mr. Terry Zhang, General Manager of each of BOT and BOM, newly identified Broad-Ocean Motor (Hong Kong) Company, Ltd. (“BOM HK”) as being related to BOM and BOT. Ex. 1011 ¶ 18; Ex. 1012 ¶ 13. Mr. Zhang testifies that each of BOM and BOT are a “wholly owned subsidiary” of BOM HK. Ex. 1011 ¶ 18 (relating to BOT); Ex. 1012 ¶ 13 (relating to BOM). Mr. Zhang also testifies that BOM HK is a wholly owned subsidiary of Zhongshan Broad-Ocean Motor Co., Ltd. (“ZBOM”).<sup>1</sup> Based on this testimony, Patent Owner argues that Petitioner’s failure to identify BOM HK as a real party in interest demands that we deny the Petition. PO Surreply, 5–8.

The panel wishes to receive additional briefing from Petitioner responding to Patent Owner’s Surreply on the whether BOM HK should be named as a real party in interest and the effect of adding BOM HK as a real

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<sup>1</sup> Petitioner previously identified ZBOM as a real party in interest. Pet. 4.

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party in interest, if any, on the viability of the Petition. Accordingly, Petitioner shall file a paper addressing the following issues:

- (i) whether BOM HK should be named as a real party in interest;
- (ii) whether Petitioner would seek to amend the Petition to add BOM HK as a real party in interest assuming arguendo that BOM HK should have been so named;
- (iii) if Petitioner answers (ii) in the affirmative, whether the filing date of the Petition would require adjustment; and
- (iv) if Petitioner answers (iii) in the affirmative, whether the Petition would be time-barred under 35 U.S.C. § 315(b).

Petitioner shall address these issues in a single paper filed in each proceeding of no more than four (4) pages by no later than August 10, 2017. Patent Owner is not authorized to submit further briefing on these issues.

## II. ORDER

For the reasons given, it is:

ORDERED that Petitioner shall file one paper in both proceedings of no more than four (4) pages in length by no later than August 10, 2017; and

FURTHER ORDERED that Petitioner's paper shall specifically address the questions set forth above.

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