

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUTCHINSON TECHNOLOGY INC.,
HUTCHINSON TECHNOLOGY OPERATIONS (Thailand) CO., LTD.,
Petitioner,

v.

NITTO DENKO CORP,
Patent Owner.

Case IPR2017-01607
Patent 8,692,126

Before THOMAS L. GIANNETTI and CHRISTA P. ZADO,
Administrative Patent Judges.

GIANNETTI, Administrative Patent Judge.

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

BACKGROUND

On August 29, 2018, a conference call was held among counsel for the parties and Judges Giannetti and Zado. The purpose of the call was to discuss Petitioner's request for authorization to file supplemental information under 37 C.F.R. § 42.123(b). The call was requested by Petitioner in an email to the Board dated August 28, 2018.

DISCUSSION

Petitioner seeks leave to file as an exhibit in this proceeding the April 27, 2018 declaration of Patent Owner's expert, Giora J. Tarnopolsky, D. Sc. Patent Owner introduced this declaration in co-pending proceeding IPR2018-00955 concerning US Patent No. 6,965,499. Petitioner contends the declaration contradicts certain statements made by Dr. Tarnopolsky in his testimony in this proceeding.

Patent Owner opposes on the grounds of timeliness and relevance. Patent Owner's counsel does not claim to be surprised by the introduction of Dr. Tarnopolsky's testimony in this proceeding, nor could they in light of the fact that they introduced his testimony in both proceedings.

ORDER

It is, therefore,

ORDERED that Petitioner's request for authorization to file Dr. Tarnopolsky's April 27, 2018 declaration from IPR2018-01955 in this proceeding is granted;

FURTHER ORDERED that by Friday, August 31, 2018, Petitioner will file the declaration along with a statement of not more than two pages identifying the portions of the declaration relied on in this proceeding and a brief explanation of their relevance;

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FURTHER ORDERED that by Friday, September 7, 2018, Patent Owner may file a response of no more than two pages to Petitioner's statement regarding the relevance of the Tarnopolsky declaration.

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