

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RAYVIO CORPORATION,
Petitioner,

v.

NITRIDE SEMICONDUCTORS CO., LTD.,
Patent Owner.

Case IPR2018-01141
Patent 6,861,270 B2

Before BARBARA A. BENOIT, FRANCES L. IPPOLITO, and
JOHN D. HAMANN, Administrative Patent Judges.

HAMANN, *Administrative Patent Judge.*

DECISION

Granting Petitioner's Motion to File Supplemental Information
37 C.F.R. §§ 42.5(a), 42.123(a)

Petitioner requested authorization to file a motion to submit supplemental information under 37 C.F.R. § 42.123(a) within one-month of our institution of trial. Paper 18. We authorized Petitioner to file the motion. *Id.* Petitioner filed a Motion to Submit Supplemental Information (Paper 19; “Mot.”) on January 17, 2019. Patent Owner did not file an opposition.

Section 42.123(a) requires (1) that any party filing a motion to request supplemental information do so “within one month from the date the trial is instituted;” and (2) that “[t]he supplemental information must be relevant to a claim for which the trial has been instituted.” 37 C.F.R. § 42.123(a). Section 123(a) “does not connote the PTAB must accept supplemental information so long as it is timely and relevant.” *Redline Detection, LLC v. Star Envirotech, Inc.*, 811 F.3d 435, 445 (Fed. Cir. 2015) (citation omitted). Our guiding principle in evaluating a motion to submit supplemental information is “to ensure the efficient administration of the Office and the ability of the Office to complete IPR proceedings in a timely manner. *Id.* at 445 (citations and internal quotations omitted).

In its Motion, Petitioner seeks to submit declarations by Ms. Katherine Zimmerman (Exhibits 1029 and 1030) and Dr. Eugene Fitzgerald (Exhibit 1033) related to the public availability of Exhibit 1007 (“Stringfellow”) and Exhibit 1011 (“Solymar”), and updated certifications of translation (Exhibits 1031 and 1032) for Japanese references in Exhibits 1005 and 1006. Patent Owner does not oppose Petitioner’s request. Petitioner has also served Patent Owner with Exhibits 1029–1033 on January 3, 2019. Mot. 1.

We determine that the supplemental information Petitioner seeks to submit in Exhibits 1029, 1030, and 1033 generally relates to the public accessibility of Stringfellow and Solymar, which is clearly relevant to Petitioner's challenges that rely on these references as prior art. Further, we recognize that the certifications attesting to the accuracy of the translations of foreign references in Exhibits 1005 and 1006 are also relevant to Petitioner's challenges, which rely on the English translations. Additionally, we note that the supplemental information does not change the grounds of unpatentability authorized in this proceeding. Also, if we allow the supplemental information into the record at this juncture, Patent Owner will have sufficient time to address the supplemental information before filing the deadline of its Patent Owner Response, due March 6, 2019. Paper 15.

Accordingly, Petitioner's Motion is GRANTED.

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's Motion is granted and the supplemental information at Exhibits 1029–1033 are deemed filed.

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