

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SERVICENOW, INC.,
Petitioner,

v.

HEWLETT-PACKARD COMPANY,
Patent Owner.

Case IPR2015-00523
Patent 6,321,229 B1

Before JUSTIN BUSCH, JAMES B. ARPIN, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

DECISION

Granting Petitioner's Request to Submit Supplemental Information
37 C.F.R. § 42.123(a)

Petitioner filed a motion to submit supplemental information, under 37 C.F.R. § 42.123(a), responsive to Patent Owner's evidentiary objections (Paper 15, 4–5) regarding two prior art references on which we instituted review, i.e., DAVID FOX & TROY DOWNING, WEB PUBLISHER'S CONSTRUCTION KIT WITH HTML 3.2 (1996) ("Fox") (Ex. 1004) and BEN FORTA ET AL., THE COLD FUSION WEB DATABASE CONSTRUCTION KIT (1997)

(“Forta”) (Ex. 1005). Petitioner submitted the information as Proposed Exhibits 1010 through 1027, which are attached as an “Exhibit A” to Petitioner’s motion. Paper 20, 2.¹ Petitioner indicated that it also has served Patent Owner with this information as supplemental evidence pursuant to 37 C.F.R. § 42.64(b)(2). Paper 20, 4. Patent Owner does not oppose Petitioner’s motion.

Petitioner’s requested authorization to file its motion is within one month of the date on which trial was instituted. *See* 37 C.F.R. § 42.123(a)(1). Additionally, we are persuaded by Petitioner’s un rebutted contentions that the information is relevant to a claim for which trial has been instituted. Paper 20, 4–5. The information that Petitioner seeks to submit includes date-stamped copies of excerpts of Fox and Forta, as received by the Library of Congress; an affidavit; and other information that Petitioner contends relates to the publication of the Fox and Forta references. This information is relevant to the public accessibility of two references on which we instituted review. Paper 13, 22–23.

For the foregoing reasons, we determine that Petitioner has satisfied its burden and is authorized to file as supplemental information under 37 C.F.R. § 42.123(a) its Proposed Exhibits 1010 through 1027, previously submitted for our consideration as “Exhibit A” to Paper 20.² Petitioner must

¹ Petitioner’s “Exhibit A” is attached to the end of Petitioner’s motion. Paper 20. We remind the parties that the information must be filed in the form of exhibits. *See* 37 C.F.R. § 42.63(a).

² We note that Proposed Exhibit 1019 includes an Appendix A. Appendix A should be filed as a separate exhibit in PRPS, although it is referred to as Appendix A within the affidavit. *See* 37 C.F.R. § 42.63(c).

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file the supplemental information as properly-numbered exhibits within five business days of this Decision.

Accordingly, it is:

ORDERED that Petitioner is authorized under 37 C.F.R. § 42.123(a) to file supplemental information, specifically Proposed Exhibits 1010 through 1027 and Appendix A to Exhibit 1019, previously submitted for our consideration as “Exhibit A” to Paper 20, within five business days of this Decision.

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