

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION
Petitioner

v.

APPLICATIONS IN INTERNET TIME, LLC
Patent Owner

Case IPR2015-01750
Patent 8,484,111 B2

Case IPR2015-01751
Case IPR2015-01752
Patent 7,356,482 B2¹

Before LYNNE E. PETTIGREW, MITCHELL G. WEATHERLY, and
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

DECISION

Patent Owner's Request for Authorization to
File Motion for Additional Discovery
37 C.F.R. §§ 42.5, 42.51(b)(2)

¹ This order addresses issues common to all cases; therefore, we issue a single order to be entered in each case. The parties are authorized to use this style heading when filing the same paper in multiple proceedings, provided that such heading includes a footnote attesting that "the word-for-word identical paper is filed in each proceeding identified in the heading."

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On October 1, 2015, a conference call was held between counsel for both parties and Judges Pettigrew, Weatherly, and Chagnon. During the call, Patent Owner requested authorization to file a motion for additional discovery directed to evidence regarding whether Salesforce.com, Inc. (“Salesforce”) is a real-party-in-interest in these proceedings.

Patent Owner represented that the requests for additional discovery would be directed to agreements and communications between Patent Owner and Salesforce, and information regarding the length of Salesforce’s membership and any membership fees paid to Patent Owner, as well as the role of Mr. Sanford Robertson, who sits on the board both of Petitioner and Salesforce. In response, Petitioner asserted that Patent Owner’s previous requests for such information were not narrowly tailored or reasonable. The parties have conferred, but have been unable to come to an agreement concerning this issue.

The panel is persuaded that further briefing would assist the Board in deciding whether to provide Patent Owner with additional discovery in this case. Accordingly, we authorize Patent Owner to file a motion for additional discovery. The motion may not exceed ten pages and should include, as an exhibit, proposed discovery requests. Petitioner is authorized to file an opposition to the motion, also not to exceed ten pages. If Petitioner objects to the scope of Patent Owner’s proposed discovery requests, the opposition should also include, as an exhibit, Petitioner’s alternative proposed discovery requests.

Patent Owner is reminded that the discovery requests should be responsibly tailored and restrained in scope, and that an important factor is

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whether Patent Owner can demonstrate more than a possibility that it will obtain the evidence that it seeks. *See Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, Case IPR2012-00001, slip op. at 6–7 (PTAB Mar. 5, 2013) (Paper 26) (informative).

Accordingly, it is:

ORDERED that Patent Owner's request for authorization to file a motion for additional discovery is granted. Patent Owner is authorized to file a 10-page motion, along with an exhibit including proposed discovery requests, by October 8, 2015; and

FURTHER ORDERED that Petitioner is authorized to file a 10-page opposition, along with an exhibit including any alternative proposed discovery requests, no later than five (5) business days after the date on which Patent Owner files its Motion.

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