

Filed on behalf of Petitioner

By: /Richard F. Giunta/

Richard F. Giunta

Elisabeth H. Hunt

Randy J. Pritzker

WOLF, GREENFIELD & SACKS, P.C.

600 Atlantic Avenue

Boston, MA 02210

Tel: (617) 646-8000

Fax: (617) 646-8646

RGiunta-PTAB@wolfgreenfield.com

Paper No. ____

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

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
MOTION FOR ADDITIONAL DISCOVERY**

¹ The word-for-word identical paper is filed in each proceeding identified in the heading.

TABLE OF CONTENTS

I. AIT FAILS TO MEET THE FIRST GARMIN FACTOR1

 A. AIT Misstates the RPI Test2

 B. No Evidence Tends To Show That Salesforce Is an RPI.....3

 1. AIT Mischaracterizes RPX’s Business Model.....4

 2. AIT Mischaracterizes RPX’s History In Filing IPRs.....6

 3. AIT’s Remaining “Evidence” Is Innocuous.....8

 C. Conclusion - Discovery Should Be Denied Outright.....9

II. ANY DISCOVERY GRANTED SHOULD BE MORE NARROWLY
TAILORED PURSUANT TO GARMIN FACTORS 1-59

TABLE OF AUTHORITIES

CASES

<i>Aruze Gaming Macau, Ltd. v. MGT Gaming, Inc.</i> , Case IPR2014-01288 (PTAB Feb. 20, 2015) (Paper 13).....	7
<i>Butamax Advanced Biofuels LLC v. Gevo, Inc.</i> , Case IPR2013-00214 (PTAB Sept. 30, 2013) (Paper 11).....	8
<i>Farmwald et al. v. ParkerVision, Inc.</i> , Case IPR2014-00946 (PTAB Feb. 20, 2015) (Paper 25).....	7, 9
<i>Garmin International, Inc. v. Cuozzo Speed Technologies LLC</i> , Case IPR2012-00001 (PTAB Mar. 5, 2013) (Paper 26)	passim
<i>Globaltel*Link Corporation v. Securus Technologies, Inc.</i> , Case IPR2015-01220 (PTAB Sept. 22, 2015) (Paper 18).....	8
<i>RPX Corporation et al. v. Red Anvil LLC</i> , Case IPR2016-00003 (PTAB Oct. 1, 2015) (Paper 6)	7
<i>RPX Corporation v. Macrosolve, Inc.</i> , Case IPR2014-00140 (PTAB May 16, 2014) (Paper 9).....	6
<i>RPX Corporation. v. VirnetX, Inc.</i> , Case IPR2014-00171 (PTAB Jun. 5, 2014) (Paper 49)	7, 8
<i>Samsung Display Co. Ltd. v. The Gold Charm Limited</i> , Case IPR2015-01416 (PTAB Sept. 4, 2015) (Paper 7).....	3
<i>Sierra Wireless America, Inc. et al. v. M2M Solutions, LLC</i> , Case IPR2015-01823 (PTAB August 26, 2015) (Paper 1)	7
<i>TRW Automotive U.S. LLC v. Magna Electronics Inc.</i> , Case IPR2015-00950 (PTAB Sept. 17, 2015) (Paper No. 8).....	6, 9
<i>U.S. Department of Homeland Security v. Larry Golden, Case</i> IPR2014-00714 (PTAB Oct. 1, 2015) (Paper 35).....	3

Unified Patents Inc. v. Hall Data Sync Technologies, LLC,
Case IPR2015-00874 (PTAB Sept. 17, 2015) (Paper 11).....7

Unified Patents, Inc. v. Dragon Intellectual Property, LLC,
Case IPR2014-01252 (PTAB Feb. 12, 2015) (Paper 37).....7, 8

RULES

77 F. Reg. at 487592, 6

I. AIT FAILS TO MEET THE FIRST GARMIN FACTOR

AIT's discovery motion should be denied. RPX has already told AIT that Salesforce is entirely uninvolved in the IPRs and offered to produce any and all evidence relating to control, ability to control, direction of or funding of the IPRs by Salesforce - but none exists. Despite this and the absence of any evidence showing beyond speculation that something useful will be found as required by *Garmin*, AIT futilely pushes forward with expansive discovery requests that are not properly tailored to meet the *Garmin* factors.

The mere possibility or allegation that something useful will be found is not enough. AIT "should already be in possession of evidence tending to show beyond speculation that in fact something useful will be uncovered." *Garmin*, IPR2012-00001, Paper 26 at 6.² "Useful" means "favorable in substantive value to a contention of the party moving for discovery." *Id.* at 7. Thus, to meet the first *Garmin* factor, AIT must possess evidence demonstrating that something will be found that is favorable to its assertion that Salesforce is an unnamed RPI.

AIT does not specify what the "something useful" is that allegedly exists, let alone present evidence of its existence. AIT seeks wide ranging discovery in the hope that something useful will be uncovered. This type of fishing expedition is prohibited by *Garmin* and routinely denied by the Board.

² Full citations to all cited Board decisions are provided in the Table of Authorities.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.