

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMX LLC and DELL INC.,
Petitioners,

v.

CHRIMAR SYSTEMS, INC.,
Patent Owner.

Case IPR2016-00569 (Patent 8,942,107)

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

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35 U.S.C. § 316	1
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Other Authorities

Office Patent Trial Practice Guide, 77 Fed. Reg. 48756 (Aug. 14, 2012).	3, 6
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Rules

37 C.F.R. § 42.51	1
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I. Introduction

Chrimar's Motion for Additional Discovery should be denied because (1) Petitioners AMX and Dell are not in privity with Hewlett-Packard Co. ("HP"), Cisco Systems, Inc. ("Cisco"), Ruckus Wireless ("Ruckus") and/or any other third-parties, and (2) Chrimar has not demonstrated that the requested additional discovery is "necessary in the interest of justice." 35 U.S.C. § 316(a)(5); 37 C.F.R. § 42.51(b)(2)(i).

Discovery in *inter partes* review ("IPR") is "less than what is normally available in district court patent litigation" because "Congress intended *inter partes* review to be a quick and cost effective alternative to litigation." *Apple Inc. v. Achates Reference Publ'g, Inc.*, IPR2013-00080, Paper 18 at 3 (P.T.A.B. Apr. 3, 2013). The Board must therefore be "conservative in authorizing additional discovery." *Id.* Additional discovery, like that requested in Chrimar's Motion, should only be permitted where such discovery is "necessary in the interest of justice." *Id.* at 4. And the necessity for discovery must be premised on more than speculation or a "mere possibility." *Id.* There must be "factual evidence or support" underlying a request for additional discovery that demonstrates "something useful [to the proceeding] will be found." *Id.* Chrimar fails to satisfy this standard and the Board should reject Chrimar's Motion.

II. The Requested Discovery Is Futile and Not in the Interest of Justice

AMX and Dell do not have any information responsive to proposed Interrogatory Nos. 2-6 or Document Request Nos. 2 and 4. (*See Ex. 2002*). AMX, its parent company Harman International Industries, and Dell are the only real parties-in-interest in this proceeding, and thus they have not taken any “steps or actions” to prevent third-parties from being named real parties-in-interest (Interrogatory No. 2). Similarly, there are no third-parties who have contributed monetarily to, have the right to control aspects of, or have received updates about the IPR proceedings (Interrogatory Nos. 3-4, 6). In addition, there are no third-parties for which AMX or Dell has the right to control activities in litigation (Interrogatory No. 5). Finally, there are no agreements with third parties relating to the IPRs (Document Request No. 2), nor are there documents or communications with third parties regarding strategy or tactics relating to these IPRs (Document Request No. 4). As a result, no information or documents exist that are responsive to Interrogatory Nos. 2-6 or Document Request Nos. 2 and 4.

The remaining discovery requests relate to indemnification agreements (Interrogatory No. 1 and Document Request No. 1) and joint defense agreements (Document Request No. 3). (*See Ex. 2002*). As set forth below, Chrimar has failed to establish, beyond mere speculation, that the requested discovery will contain any useful information. Moreover, the requested discovery is overly burdensome.

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