

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

I.M.L. SLU,
Petitioner,

v.

WAG ACQUISITION, LLC
Patent Owner.

Case IPR2016-01656
Patent 8,122,141 B2
Case IPR2016-01658
Patent 8,364,839 B2¹

Before TREVOR M. JEFFERSON, BRIAN J. McNAMARA, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

ORDER AUTHORIZING PATENT OWNER TO OPPOSE
PETITIONER'S UNAUTHORIZED LETTER MOTION FOR
ADDITIONAL DISCOVERY AND SCHEDULING ARGUMENT
Conduct of the Proceeding
37C.F.R. § 42.5

¹ This Order is to be filed in each case. The parties are not authorized to use this style heading in any subsequent papers

Oral argument on the merits is scheduled for this matter on November 30, 2017. Our Trial Hearing Order entered on November 15, 2017 also provides for argument concerning a Motion For Additional Discovery filed by WAG Acquisition, LLC (“Patent Owner”) concerning whether I.M.L. SLU (“Petitioner”) has disclosed all real parties-in-interest. Paper 31 (“Trial Hearing Order”), 3.

On November 20, 2017, without requesting a conference to seek prior authorization, Petitioner filed a five page “Letter” advising the panel of developments in a separate district court litigation in which Petitioner is not a party. Paper 32 (“Letter”). Petitioner’s Letter states that discovery in *WAG Acquisition L.L.C. v. MultiMedia, LLC, et al.* (14-cv-02340) has raised questions about whether Patent Owner in this proceeding has ceded rights to Woodsford Litigation Funding Limited and Woodsford Litigation Funding (US) (“Woodsford”), that strip Patent Owner of constitutional standing to sue. Paper 32 (“Letter”) (citing *WAG Acquisition v. MultiMedia*, Letter from Justin T. Quinn, Esq., to the Honorable Esther Salas, U.S.D.J.). Petitioner states that “the fact that WAG may not have standing to sue for infringement of the patents-at-issue is directly relevant to the question of whether WAG may be heard in the pending IPRs.” Letter 3. Petitioner requests that we:

order WAG to produce to petitioner’s counsel, no later than Friday, November 24, 2017, copies of all agreements between Woodsford and WAG or its counsel concerning (directly or indirectly) the IPRs or the patents-at-issue; documents sufficient to show any interest of Woodsford in either of the patents-in-suit and the dates those interests were acquired; documents sufficient to show the full extent of WAG’s interest in both of the patents-in-suit and any conditions or limitations on those interests, together with dates; and documents or a statement disclosing in full any role Woodsford has played in funding,

supervising, consulting, controlling or participating in any way in the pending IPRs.

Id. at 4.

Petitioner's "Letter" requesting that we order Patent Owner to produce documents is an unauthorized Letter Motion for Additional Discovery and under normal circumstances would be not considered. However, as the Trial Hearing is only ten days from now and the Thanksgiving holiday falls in the interim, we authorize Patent Owner to file an Opposition to Petitioner's Letter Motion, not to exceed five pages, by Tuesday, November 28, 2017. We will hear argument from both parties on Petitioner's Letter Motion For Additional Discovery at the Trial Hearing on November 30, 2017.

ORDER

In consideration of the above, it is

ORDERED that Petitioner's "Letter" filed November 20, 2017 (Paper 32) is treated as a Letter Motion For Additional Discovery;

FURTHER ORDERED that Patent Owner is authorized to file an Opposition to Petitioner's Letter Motion For Additional Discovery up to five pages by November 28, 2017; and

FURTHER ORDERED that we will hear oral argument on Petitioner's Letter Motion For Additional Discovery at the Trial Hearing scheduled for November 30, 2017.

IPR2016-01656; IPR2016-01658
Patent 8,122,141 B2; 8,364,839 B2

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