

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Google LLC

Petitioner

v.

Cywee Group Ltd.

(record) Patent Owner

IPR2018-01257

Patent No. 8,552,978

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

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Exhibit No.	Description
1001	U.S. Pat. No. 8,441,438 (“ the ’438 patent ”).
1002	Declaration of Professor Majid Sarrafzadeh.
1003	C.V. of Professor Majid Sarrafzadeh.
1004	U.S. Pat. No. 7,089,148 (“ Bachman ”).
1005	U.S. Pat. App. Pub. 2004/0095317 (“ Zhang ”).
1006	U.S. Pat. 7,158,118 (“ Liberty ”).
1007	Return of Service for <i>Cywee Group Ltd. v. Google, Inc.</i> , Case No. 1-18-cv-00571, (D. Del.).
1008	Return of Service for <i>Cywee Group Ltd. v. Huawei Technologies Co., Inc. et al.</i> , Case No. 2-17-cv-00495, (E.D. Tex.).
1009	File History of U.S. Pat. App. 12/943,934.
1010	Joint Claim Construction and Prehearing Statement in <i>Cywee Group Ltd. v. Samsung Electronics Co. Ltd. et al.</i> , Case No. 2-17-cv-00140, (E.D. Tex.).
1011	Ex. E to Complaint of April 16, 2018 in <i>Cywee Group Ltd. v. Google, Inc.</i> , Case No. 1-18-cv-00571 (D. Del.).
1012	Email of August 3, 2018 from Michael Shore to Luann Simmons.
1013	CyWee’s First Requests for Production of Documents in <i>Cywee Group Ltd. v. Google, Inc.</i> , Case No. 1-18-cv-00571, (D. Del.).
1014	CyWee’s Opposition to Petitioner’s Motion for Joinder to Inter Partes Review IPR2018-01258 of February 8, 2019.
1015	CyWee’s Opp. to Defendants’ Motion to Stay Pending Inter Partes Review Proceedings in <i>CyWee Group, Ltd. v. Samsung Elec. Co., Ltd.</i> , Case 2:17-cv-00140-WCB-RSP (E.D. Tex. Jan. 25, 2019).

1016	Complaint of April 16, 2018 in <i>Cywee Group Ltd. v. Google, Inc.</i> , Case No. 1-18-cv-00571 (D. Del.).
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Petitioner, Google LLC, respectfully requests that the Board deny Patent Owner CyWee's motion of May 21, 2019 for additional discovery ("Mot.")(Paper 24). CyWee's motion is untimely, and its requests are not in the interests of justice.

I. CYWEE'S MOTION IS UNTIMELY

CyWee's motion should be denied because CyWee failed to raise it during its discovery period. Timeliness is both a threshold issue (§I), and a factor in the "interests of justice" analysis (§II). *See The Heil Co. v. Adv. Custom Engineered Systems & Equip. Co.*, IPR2018-00139, Paper 17, p. 7 (PTAB Oct. 9, 2018).

A. CyWee's motion contains an implicit request for an extension of time, and should require good cause

CyWee essentially seeks an extension of its discovery period. CyWee's discovery period, per the Trial Practice Guide, ended when CyWee filed its Patent Owner Response. *See Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,757-61 (Aug. 14, 2012). The Board has previously required "good cause" to seek RPI discovery after the patent owner's discovery period. 37 C.F.R. §§42.5(c)(2) and (3). *See The Heil Co. v. Adv. Custom Engineered Systems & Equip. Co.*, IPR2018-00139, Paper 17, p. 7 (PTAB Oct. 9, 2018)("Patent Owner does not offer any good cause for its delay in requesting this discovery...").¹

¹ CyWee cites a non-precedential decision (Paper 73) from the *Ventex* case for the proposition that RPI issues cannot be waived, but CyWee's motion here is for

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