

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

GUI GLOBAL PRODUCTS, LTD., D/B/A GWEE,
Patent Owner.

IPR2021-00470 (Patent 10,259,020 B2)
IPR2021-00471 (Patent 10,259,021 B2)
IPR2021-00472 (Patent 10,562,077 B2)
IPR2021-00473 (Patent 10,589,320 B1)¹

Before SALLY C. MEDLEY, BRYAN F. MOORE, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 U.S.C. § 42.5

¹ We exercise our discretion to issue a single Order, to be filed in each case.
The parties are not authorized to use this caption for subsequent papers.

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On July 20, 2021, the Board received an email from the parties where Petitioner requested leave under 37 CFR. § 42.8 to file a Joint Motion to Amend the Scheduling Order and an Amended Scheduling Order, which are documents that were filed in the related District Court litigation, *GUI Global Prods, Ltd. d/b/a Gwee v. Apple, Inc.*, No. 4:20-cv-02652 (S.D. Tex.). Patent Owner did not oppose Petitioner’s request to file the Amended Scheduling Order, but objected to the filing of the Joint Motion to Amend the Scheduling Order. We requested that the parties provide briefing on the issues of whether Section 42.8 applies to the request, and whether the documents at issue are relevant to disputed issues. On July 28, 2021, the parties responded by email briefing.

As to the issue of whether Section 42.8 applies to the documents for which filing is sought, Petitioner argues that the provision applies because “37 CFR § 42.8 mandates that the parties ‘[i]dentify any other judicial ... matter that would affect, or be affected by, a decision in the proceeding,’ and directs the parties to file updated notices ‘within 21 days of a change of the information ...’” Patent Owner asserts that the provision does not apply because “[m]andatory notices under 37 CFR 42.8 require identification of real parties in interest (RPI), related matters, lead and back-up counsel, and service information.” *Id.*

On the issue of the application of Section 42.8, we agree with Patent Owner that based on the facts of these cases, the rule is not applicable to the documents at issue. With regard to Petitioner’s argument that the provision “[i]dentify[ing] any other judicial ... matter that would affect, or be affected by, a decision in the proceeding,” should apply, we do not agree because the

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language “a decision in the proceeding” refers to this proceeding and Petitioner is only required to identify the “judicial matter,” i.e., the identification of the related District Court litigation, which has already been provided. *See* Paper 1, 90.²

However, in order to provide a more complete record of the filings and status of the District Court litigation, we grant Petitioner’s unopposed request to file the Amended Scheduling Order. We do not grant Petitioner’s request to file the Joint Motion to Amend the Scheduling Order because, as Patent Owner argues, it reflects only party arguments.

Accordingly, it is:

ORDERED that we *grant* Petitioner’s unopposed request to file the Amended Scheduling Order from the related District Court litigation; and

FURTHER ORDERED that we *deny* Petitioner’s request to file the Joint Motion to Amend the Scheduling Order from the related District Court litigation.

² For purposes of expediency, we cite to information from Papers filed in IPR2021-00470. Patent Owner provided similar information in each of the above-identified proceedings.

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PETITIONER:

W. Karl Renner
Roberto J. Devoto
Andrew Patrick
Kim H. Leung
Kenneth Wayne Darby Jr
FISH & RICHARDSON P.C.
axf-ptab@fr.com
devoto@fr.com
patrick@fr.com
leung@fr.com
kdarby@fr.com

PATENT OWNER:

John J. Edmonds
Stephen F. Schlather
EDMONDS & SCHLATHER, PLLC
pto-edmonds@ip-lit.com
sschlather@ip-lit.com

Tarek Fahmi
ASCENDA LAW GROUP, PC
tarek.fahmi@ascendalaw.com