

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NINTENDO CO., LTD.,
and NINTENDO OF AMERICA INC.,
Petitioners

v.

ANCORA TECHNOLOGIES, INC.,
Patent Owner

Case IPR2021-01338
U.S. Patent No. 6,411,941

**PETITIONERS' UNOPPOSED MOTION FOR
ADDITIONAL DISCOVERY**

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II. THE PARTIES HAVE REACHED AN AGREEMENT FOR PATENT OWNER TO PRODUCE ADDITIONAL DOCUMENTS BUT REQUIRE ACTION FROM THE BOARD..... 2

III. THE INTERESTS OF JUSTICE SUPPORT GRANTING ADDITIONAL DISCOVERY. 3

 A. Garmin Factor 1: The requested discovery is based on more than a mere possibility of finding something useful.4

 B. Garmin Factor 2: The requested discovery does not seek Ancora’s litigation positions or the basis for those positions.4

 C. Garmin Factor 3: The information cannot reasonably be generated without the discovery request.4

 D. Garmin Factor 4: The requested discovery is easily understandable.....5

 E. Garmin Factor 5: The requested discovery is not overly burdensome for Patent Owner to answer.5

IV. CONCLUSION..... 5

EXHIBIT LIST

Exhibit No.	Description
Ex. 1001	U.S. Patent No. 6,411,941 to Mullor et al. (“’941 Patent”)
Ex. 1002	Image File Wrapper of U.S. Patent No. 6,411,941 (“File History”)
Ex. 1003	Declaration of Andrew Wolfe, Ph.D. (“Wolfe Decl.”)
Ex. 1004	U.S. Patent No. 4,658,093 (“Hellman”)
Ex. 1005	U.S. Patent No. 5,892,906 (“Chou”)
Ex. 1006	U.S. Patent No. 5,933,498 (“Schneck”)
Ex. 1007	Reserved
Ex. 1008	Reserved
Ex. 1009	Reserved
Ex. 1010	Reserved
Ex. 1011	Claim Construction Order, <i>Ancora Techs., Inc. v. Apple Inc.</i> , No. 4:11-cv-06357 (N.D. Cal. Dec. 31, 2012) (ECF No. 107).
Ex. 1012	Final Claim Constructions of the Court, <i>Ancora Techs., Inc. v. LG Elecs., Inc.</i> , No. 1:20-cv-00034 (W.D. Tex. June 2, 2020) (ECF No. 69).
Ex. 1013	Supplemental Claim Construction Order, <i>Ancora Techs., Inc. v. LG Elecs., Inc.</i> , No. 1:20-cv-00034 (W.D. Tex. Aug. 19, 2020) (ECF No. 93).
Ex. 1014	Civil Minutes re Telephonic <i>Markman</i> Hearing, <i>Ancora Techs., Inc. v. TCT Mobile (US), Inc.</i> , No. 8:19-cv-02192 (C.D. Cal. Nov. 12, 2020) (ECF No. 66) (attaching “The Court’s Final Ruling on Claim Construction (<i>Markman</i>) Hearing,” but also ordering further meet and confer on subject).
Ex. 1015	Civil Minutes re Telephonic <i>Markman</i> Hearing, <i>Ancora Techs., Inc. v. TCT Mobile (US), Inc.</i> , No. 8:19-cv-02192 (C.D. Cal. Nov. 19, 2020) (ECF No. 69) (confirming no change to “The Court’s Final Ruling on Claim Construction (<i>Markman</i>) Hearing”).
Ex. 1016	Decision Granting Institution of <i>Inter Partes</i> Review, <i>TCT Mobile (US) Inc. v. Ancora Technologies, Inc.</i> , No. IPR2020-01609 (Feb.

	16, 2021) (Paper No. 7) (“TCL Institution Decision”).
Ex. 1017	Decision Granting Institution of <i>Inter Partes</i> Review, <i>Sony Mobile Commc’ns AB v. Ancora Technologies, Inc.</i> , No. IPR2021-00663 (June 10, 2021) (Paper No. 17) (“Sony Institution Decision”).
NEW EXHIBIT	
Ex. 1018	Board Email Authorizing Motion For Additional Discovery, May 27, 2022

Nintendo Co., Ltd. and Nintendo of America Inc. (“Petitioners”) seek production of all unproduced licenses or settlement agreements involving the challenged ’941 patent, including at least the additional unproduced licenses that were explicitly cited by Patent Owner and its declarant in its papers. Patent Owner has alleged that it has not produced all of its agreements involving the ’941 patent because of confidentiality provisions associated with those agreements. But in a meet-and-confer preceding this motion, Patent Owner said it would not oppose this motion requesting an order requiring it to produce its additional ’941 patent licenses as long as they are subject to the proposed protective order (Ex. 2038). Consistent with this agreement between Petitioners and Patent Owner, Petitioners submit this targeted additional discovery request under 37 C.F.R. § 42.51(b)(2), which the Board authorized by email dated May 25, 2022. EX1018. As shown below, the motion satisfies all five “Garmin factors” set forth in *Garmin Int’l Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper No. 26, at 6–7 (P.T.A.B. Mar. 5, 2013) (precedential).

I. STATEMENT OF THE FACTS

In its POR, Patent Owner argues that objective evidence in the form of certain licenses for the challenged ’941 patent support its non-obviousness arguments. POR, 66-70. In support, Patent Owner selectively produced three

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