

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRILLER, INC.
Petitioner

v.

TIKTOK PTE. LTD.
Patent Owner

Case No. IPR2022-00179
U.S. Patent No. 9,648,132
Issue Date: May 9, 2017

Title: Method Of Enabling Digital Music Content To Be Downloaded To And
Used On a Portable Wireless Computing Device

**PETITIONER'S MOTION
TO SUBMIT SUPPLEMENTAL INFORMATION**

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	Error! Bookmark not defined.
INTRODUCTION	1
ARGUMENT	1
I. Legal Standards	1
II. There Is Good Cause for the Board to Allow Submission of Paragraphs 5-19 of the Supplemental Declaration Testimony Addressing Category 1	4
A. The Board Should Allow the Testimony in Paragraphs 5-11 of the Supplemental Declaration	4
B. The Board Should Allow the Testimony in Paragraphs 12-13 of the Supplemental Declaration	6
C. The Board Should Allow the Testimony in Paragraphs 18-19 of the Supplemental Declaration	8
III. There Is Good Cause for the Board to Allow Submission of Paragraphs 18-21 of the Supplemental Declaration Addressing Category 2	9
IV. There Is Good Cause for the Board to Allow Submission of Paragraphs 14-16 and 26-75 of the Supplemental Declaration Testimony Addressing Category 3	10
A. The Board Should Allow the Testimony in Paragraphs 26-60 of the Supplemental Declaration	11
B. The Board Should Allow the Testimony in Paragraphs 14-16 and 61-75 of the Supplemental Declaration	13
CONCLUSION	15

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Genzyme Therapeutic Products Ltd. Partnership v. Biomarin Pharmaceutical Inc., 825 F.3d 1360 (Fed. Cir. 2016)</i>	2
<i>Nix v. Whiteside, 475 U.S. 157 (1986)</i>	3
<i>Pacific Market Int’l LLC v. Ignite USA, LLC, IPR2014-00561, Paper No. 23</i>	<i>passim</i>
<i>Redline Detection, LLC v. Star Envirotech, Inc., 811 F.3d 435 (Fed. Cir. 2015)</i>	3, 6
<i>Technology Licensing Corp. v. Videotek, Inc., 545 F.3d 1316 (Fed. Cir. 2008)</i>	12, 14
<i>TechSearch, LLC v. Intel Corp., 286 F.3d 1360 (Fed. Cir. 2002)</i>	3

Other Authorities

37 C.F.R. § 42.123	2, 3
37 C.F.R. § 42.123(a)	1, 2, 3
37 C.F.R. § 42.123(b) and § 42.123(c)	3

INTRODUCTION

Pursuant to 37 C.F.R. § 42.123(a) and pursuant to authorization from the Board in its email dated June 24, 2022, Petitioner Triller, Inc. (“Petitioner”) hereby files this motion to submit supplemental information. Specifically, Petitioner seeks to submit the Supplemental Declaration of Dr. Michael I. Shamos (provisionally filed as Ex. 1031) to provide testimony addressing three categories of issues: (1) issues unanticipated by Petitioner, raised by Patent Owner for the first time in the Patent Owner Preliminary Response, and addressed by the Board in the Institution Decision (“Category 1”), (2) issues of inherency which the Board addressed in the Institution Decision and requested the parties to further address during trial (“Category 2”), and (3) passages identified for the first time in the Patent Owner Preliminary Response (and then addressed in the Institution Decision) alleged to disclose claimed subject matter in the May 2007 PCT application priority document (“Category 3”). For the reasons set forth below, the motion to submit the Supplemental Declaration as supplemental information should be granted.

ARGUMENT

I. Legal Standards

Under 37 C.F.R. § 42.123(a), “a party may file a motion to submit supplemental information” if “(1) [a] request for the authorization to file a motion

to submit supplemental information is made within one month of the date the trial is instituted” and “(2) [t]he supplemental information [is] relevant to a claim for which the trial has been instituted.” In this case, trial was instituted on May 16, 2022, and Petitioner requested authorization by email to file this motion on June 16, 2022, within one month thereafter. As set forth more fully below, the Supplemental Declaration is also clearly relevant to the claims for which trial has been instituted.

The provisions of 37 C.F.R. § 42.123 “contemplate scenarios in which, after institution of trial in an *inter partes* review, supplemental information may prove beneficial to the Board in reaching a decision with respect to the trial.” *Pacific Market Int’l LLC v. Ignite USA, LLC*, IPR2014-00561, Paper No. 23, p. 3 (PTAB Dec. 2, 2014) (available at 2014 WL 6772228) (granting motion to submit supplemental declaration as supplemental information under 37 C.F.R. § 42.123(a)). Indeed, the Federal Circuit has explained that “the introduction of new evidence in the course of the trial is to be expected in *inter partes* review trial proceedings,” that “[t]he development of evidence in the course of the trial is in keeping with the oppositional nature of an *inter partes* review proceeding,” and that “[t]he purpose of the trial in an *inter partes* review proceeding is to give the parties an opportunity to build a record by introducing evidence—not simply to weigh evidence of which the Board is already aware.” *Genzyme Therapeutic*

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.