

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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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

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

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## 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*

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