

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DR. MICHAEL FARMWALD and RPX CORPORATION,
Petitioner,

v.

PARKERVISION, INC.,
Patent Owner.

Case IPR2014-00946 (Patent 6,266,518 B1)
Case IPR2014-00947 (Patent 6,061,551)
Case IPR2014-00948 (Patent 6,370,371 B1)¹

Before MICHAEL R. ZECHER, BART A. GERSTENBLITH, and
JON B. TORNQUIST, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

DECISION

Granting Patent Owner's Request for Authorization to File a Motion for
Authorization to Apply for a Subpoena Seeking Third-Party Discovery
37 C.F.R. § 42.52(a)

¹ This Order addresses issues that are identical in the three cases. We, therefore, exercise our discretion to issue one Order to be filed in each of the three cases. The parties are not authorized to use this heading style in their papers.

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IPR2014-00948 (Patent 6,370,371 B1)

I. INTRODUCTION

Patent Owner's counsel requested a conference call, via e-mail dated June 5, 2015, to seek authorization to file a motion for authorization to apply for a subpoena seeking third-party discovery of Qualcomm in each of the above-referenced proceedings.² We held a conference call on June 8, 2015. The participants were counsel for Petitioner and Patent Owner, respectively, and Administrative Patent Judges Zecher, Gerstenblith, and Tornquist. Counsel for Patent Owner indicated that a court reporter was on the call and that confidential matters may be discussed during the call. We noted that a protective order had not been filed in the subject proceedings and that, if the parties desired to do so, one should be filed with a motion to seal requesting the sealing of certain portions of the transcript alleged to be confidential. Along with any motion to seal, the parties should file confidential (Board and parties' eyes only) and public (with proposed redactions) versions of the transcript.

Counsel for Patent Owner explained that Patent Owner seeks third-party discovery from Qualcomm related to whether Qualcomm should have been identified as a real-party in interest in the subject proceedings. Patent Owner's List of Proposed Motions, filed January 17, 2015, included a motion for third-party discovery of Qualcomm. *See, e.g.*, IPR2014-00946, Paper 12, 1. At the time of the Initial Conference Call, as memorialized in the Order dated January 26, 2015, we authorized Patent Owner to file a motion for additional discovery of Petitioner entities, RXP Corp. and

² Patent Owner seeks authorization to file a *motion for authorization* to apply for a subpoena; Patent Owner does not seek authorization to apply for a subpoena at this time.

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Dr. Farmwald, but we did not authorize Patent Owner to file a motion for third-party discovery, indicating that such request was premature. *See, e.g., id.*, Paper 13, 3. We granted Patent Owner's subsequent Motion for Additional Discovery. *See, e.g., id.*, Paper 25.

Counsel for Patent Owner explained, during our June 8th conference call, that additional discovery obtained from Petitioner revealed certain information that it believes is relevant to the issue of real-party in interest, but that it was unable to obtain further information from Petitioner. Patent Owner believes that Qualcomm may possess this further information and desires an opportunity to explain, more fully, the basis for its request in a motion seeking authorization to apply for a subpoena.

II. ORDER

It is:

ORDERED that Patent Owner is authorized to file a motion seeking authorization to apply for a subpoena seeking third-party discovery from Qualcomm;

FURTHER ORDERED that any such motion shall be limited to ten (10) pages, and shall be filed within seven (7) calendar days of this Order;

FURTHER ORDERED that Petitioner may file an opposition to Patent Owner's motion, limited to ten (10) pages, within seven (7) calendar days of Patent Owner's service and filing of its motion; and

FURTHER ORDERED that no further briefing is authorized at this time.

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