

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUANERGY SYSTEMS, INC.
Petitioner,

v.

VELODYNE LIDAR, INC.
Patent Owner.

Cases IPR2018-00255, -00256¹
Patent 7,969,558 B2

Before CARL M. DEFRANCO, JOHN P. PINKERTON, and
MICHAEL L. WOODS, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

DECISION

Petitioner's Motion to Submit Supplemental Information
37 C.F.R. § 42.123(b)

On August 6, 2018, we authorized Petitioner, Quanergy Systems, Inc. ("Quanergy") to file a motion to submit supplemental information under 37 C.F.R. § 42.123. Quanergy filed its motion that same day, explaining that

¹ This decision applies to each proceeding. All citations are to filings in IPR2018-00255.

the supplemental information it wishes to submit includes a *new* English-language translation of the same Japanese Patent Application Publication No. H3-6407 (Ex. 1004, “Mizuno”) submitted in support of the petition for *inter partes* review. Paper 19 (“Mot.”). Quanergy seeks to submit the new Mizuno translation, along with a declaration attesting to its accuracy, as Exhibit 1058 to replace Exhibit 1004, the Mizuno translation currently of record in this proceeding. Quanergy indicates that Patent Owner, Velodyne Lidar, Inc. (“Velodyne”), does not oppose the motion. Mot. 2.

Quanergy bears the burden of proving that it is entitled to the relief requested in its motion. 37 C.F.R. § 42.20(c). When a party seeks to submit supplemental information within one month of institution, it need only show that the information is “relevant to a claim for which the trial has been instituted.” *Id.* § 42.123(a). However, when a party seeks to submit supplemental information more than one-month after the trial is instituted, it must additionally show “why the supplemental information reasonably could not have been obtained earlier, *and* that consideration of the supplemental information would be in the interests-of-justice.” *Id.* § 42.123(b) (emphasis added). Here, because Quanergy seeks to file supplemental information more than one month after the date on which we instituted trial, it must make the additional showings of this latter requirement.

As to the first prong, we determine that Quanergy could not have reasonably submitted the information earlier. As Quanergy indicates, it learned only three days before the one-month deadline that Velodyne wished to depose the translator of the original Mizuno translation. Mot. 2–3. Upon learning of Velodyne’s desire to depose the translator, Quanergy attempted to schedule the deposition and, when it realized that the translator would be

unavailable for deposition, immediately undertook efforts to commission the services of another translator to translate the Mizuno reference anew and attest to the accuracy of the new translation. *Id.* at 3–5. Under these circumstances, we find it reasonable that Quanergy would have expected that the original translator, retained from a reputable and well-known translation service, would be available for deposition, and upon being informed to the contrary, took appropriate actions to correct the situation without unduly prejudicing Velodyne.

As to the second prong, we find that granting Quanergy’s motion is in the interests of justice. The Mizuno reference implicates each of the claims on which we instituted trial and serves as the primary basis for each of the grounds asserted in the petition, making it paramount to this proceeding. *See* Paper 15, 6–10. In addition, the supplemental information Quanergy seeks to submit does not change the asserted grounds, nor does it effectively change the evidence presented in support of those grounds. Instead, the supplemental information merely constitutes additional evidence to confirm the accuracy of the original Mizuno translation presented in Exhibit 1004. Because discovery is ongoing, Velodyne has the opportunity to depose the new translator about the substance of the new Mizuno translation, as well as to supply its own translation to the extent a question arises about the accuracy of the new translation. Overall, we find that Quanergy meets the requirements of 37 C.F.R. § 42.123 for submission of supplemental information.

Accordingly, it is hereby ORDERED that Quanergy’s motion to submit Exhibit 1058 as supplemental information is *granted*.

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