

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

WILUS INSTITUTE OF STANDARDS AND TECHNOLOGY INC.,
Patent Owner.

IPR2025-00934
Patent 11,159,210 B2

Before TERRENCE W. McMILLIN, JON M. JURGOVAN, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

ORDER
Granting Motion for Supplemental Information
37 C.F.R. § 42.123(a)

INTRODUCTION

On December 9, 2025, Petitioner filed a Motion for Supplemental Information Pursuant to 37 C.F.R. § 42.123(a) (Paper 16, “Motion” or “Mot.”). In its Motion, Petitioner requests entry of Exhibit 1038 into evidence.¹ Mot. 7. For the reasons discussed below, the Motion is granted.

DISCUSSION

Background

On November 3, 2025, a Decision Granting Institution of *Inter Partes* Review (Paper 12, “DI”) was entered. DI 34. One of the issues addressed in the DI was the prior art status of 802.11ax_D1.0 (Ex. 1004). *Id.* at 9–15. As noted in the DI, two of Petitioner’s challenges to the claims rely on 802.11ax_D1.0 (Ex. 1004). *Id.* at 9 (“Petitioner challenges claims 1–9 of the ’210 patent as obvious in view of 802.11ax_D1.0 (Ex. 1004) (claims 6–9 (Ground 1A)) and the combination of 802.11ax_D1.0 and Bharadwaj (Ex. 1013) (claims 1–5 (Ground 1B)). Pet[ition, (Paper 2)] 1, 32–61.”). The DI said, “[f]or either of these challenges to succeed, Petitioner must establish that 802.11ax_D1.0 is prior art to the challenged claims of the ’210 patent.” *Id.* As further noted in the DI, Patent Owner challenged the prior art status of 802.11ax_D1.0 (Ex. 1004) on the basis that the Petition fails to establish that 802.11ax_D1.0 was publicly accessible. *Id.* at 11 (citing Paper 9 (Preliminary Response), 2, 18–22).

As support for its contention that 802.11ax_D1.0 (Ex. 1004) was publicly accessible, Petitioner relies on Exhibit 1026 (“Public Accessibility

¹ Petitioner also requested leave to submit Exhibit 1038. Mot. 7. Exhibit 1038 was filed with the Motion and is already in the record of this proceeding. Petitioner’s request for leave to submit Exhibit 1038 is retroactively granted. Exhibit 1038 need not be submitted again.

Declaration of Christopher Hansen, Ph.D.”). *Id.* at 10–11. After considering the Petition and Exhibit 1026, we said that “we would like to see further development of this issue during trial. The current record is not well-developed on this issue either factually or legally.” *Id.* at 14.

On November 17, 2025, Patent Owner filed a Request for Director Review of Institution Decision (Paper 14, “Request,” “Req.”). In its Request, Patent Owner sought denial of institution. Req. 15. The Request included a number of arguments including that “the Board erred in concluding that [Petitioner] had presented sufficient evidence of public accessibility of 802.11ax_D1.0, even after recognizing the overall weakness of [Petitioner]’s arguments.” *Id.* at 1; *see also id.* at 9–13. Petitioner opposed the Request and disputed Patent Owner’s argument concerning public accessibility of 802.11ax_D1.0. Paper 15, 10–13. On February 4, 2026, the Director denied the Request.² Paper 22.

The Requirements of 37 C.F.R. § 42.123(a) Are Met

This Motion is brought pursuant to 37 C.F.R. § 42.123(a) which provides:

Once a trial has been instituted, a party may file a motion to submit supplemental information in accordance with the following requirements:

- (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.
- (2) The supplemental information must be relevant to a claim for which the trial has been instituted.

² The Director’s Order denying the Request did not discuss the public accessibility of 802.11ax_D1.0. Paper 22, 2.

With regard to 37 § 42.123(a)(1), trial was instituted on November 3, 2025. *See* DI. Petitioner’s request for authorization to file a motion to submit supplemental information was timely made on December 3, 2025. *See* Exhibit 1039.

With regard to 37 § 42.123(a)(2), the Motion provides:

SAMSUNG-1038 is a supplemental declaration that includes sworn testimony and contemporaneous evidence concerning the public accessibility of 802.11ax_D1.0. Grounds 1A (claims 6-9) and 1B (claims 1-5) rely on 802.11ax_D1.0 to show that claims 1-9 of the ’210 Patent were obvious. SAMSUNG-1038 is therefore relevant to the Petition’s obviousness showings with respect to each of claims 1-9.

Mot. 1. We agree with Petitioner that Exhibit 1038 is relevant to a claim for which the trial has been instituted. Patent Owner has not argued otherwise.³

We determine that the requirements of 37 C.F.R. § 42.123(a) are met.

Analysis

As discussed above, the public accessibility of 802.11ax_D1.0 (Ex. 1004) is an important issue in this proceeding. In the Petition, Petitioner argued public accessibility with supporting evidence including Exhibit 1026 (Public Accessibility Declaration of Christopher Hansen, Ph.D.). Paper 2, 17–19. In the Preliminary Response, Patent Owner contested this argument and evidence. Prelim. Resp. 18–22. In the DI, we noted that the record was not well-developed on this issue. DI 14.

Exhibit 1038 is the Supplemental Public Accessibility Declaration of Christopher Hansen, Ph.D., “that includes sworn testimony and

³ Patent Owner was authorized to file a response to the Motion. Ex. 1039. No response was filed.

contemporaneous evidence concerning the public accessibility of 802.11ax_D1.0.” Mot. 1; *see also id.* at 2 (“SAMSUNG-1038 supplements other information submitted with the Petition, including Dr. Hansen’s first public accessibility declaration (SAMSUNG-1026), that addressed the public accessibility of 802.11ax_D1.0.”).

Although given the opportunity to oppose the Motion and dispute the relevance of Exhibit 1038 (*see* Ex. 1039), Patent Owner has not done so. And, this proceeding is in its early stages and Patent Owner has not yet filed its response to the Petition. Ample opportunity exists for Patent Owner to argue public accessibility of 802.11ax_D1.0 and other issues raised by entering Exhibit 1038 into the record.

We determine that the record will be better developed if Exhibit 1038 is entered into evidence. Exhibit 1038 appears relevant and we determine Exhibit 1038 should be entered into evidence.

ORDER

For these reasons, it is hereby ordered that Petitioner’s Motion for Supplemental Information Pursuant to 37 C.F.R. § 42.123(a) (Paper 16) is granted and Exhibit 1038 is admitted into evidence.

IPR2025-00934
Patent 11,159,210 B2

FOR PETITIONER:

W. Karl Renner
Jeremy J. Monaldo
Nicholas Stephens
Rishi Gupta
FISH & RICHARDSON P.C.
axf-ptab@fr.com
jjm@fr.com
nstephens@fr.com
rgupta@fr.com

FOR PATENT OWNER:

Reza Mirzaie
Neil A. Rubin
Philip X. Wang
RUSS AUGUST & KABAT
rmirzaie@raklaw.com
nrubin@raklaw.com
pwang@raklaw.com