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Paper 12
Date: March 18, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

TIANMA MICROELECTRONICS CO., LTD.,
Petitioner,

v.

LG DISPLAY CO., LTD.,
Patent Owner.

IPR2025-01579
Patent 11,251,394 B2

Before JOHN A. SQUIRES, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office*.

DECISION
Denying Institution of *Inter Partes* Review

I. BACKGROUND

LG Display Co., Ltd. ("Patent Owner") filed a request for discretionary denial of institution (Paper 7, "DD Req.") in the above-captioned case. Tianma Microelectronics Co., Ltd., Tianma Microelectronics (HONG KONG) Limited, and Wuhan Tianma Microelectronics Co., Ltd (collectively "Petitioner") filed an opposition (Paper 8, "DD Opp.").

After considering the parties' arguments and the record, and in view of all relevant considerations, denial of institution was appropriate in this proceeding. *See* Paper 11, 1. This determination was based on the totality of the evidence and arguments presented, and I highlight the following reasons.

II. ANALYSIS

A. The Parties' Arguments

Patent Owner argues that the Petition should be denied because Petitioner failed to disclose several entities, including a foreign government defense entity, as real parties in interest ("RPI") and that failure "presents compelling national security interests supporting denial." DD Req. 7. Specifically, Patent Owner argues that Petitioner Tianma Microelectronics Co., Ltd. ("Tianma") is "a subsidiary and an affiliate of Aviation Industry Corporation of China (AVIC), a large aerospace and defense conglomerate wholly owned by the Chinese government." *Id.* at 7–8 (citing Ex. 2015; Ex. 2016) (emphasis omitted). Patent Owner further argues that Tianma's Corporate Disclosure Statement identifies AVIC Innovation Holding Limited ("AVIC Innovation") as owning "10% or more" of Tianma's stock. *Id.* at 8; Ex. 2017, 1; *see* Exs. 2015–16. Patent Owner also provides evidence that AVIC is on the Department of Commerce "entity list" (i.e.,

parties "involved in activities that are contrary to the national security or foreign policy interests of the United States"). *Id.* at 8–9 (citing Ex. 2019).

Petitioner responds that none of the entities Patent Owner identifies are RPIs because none of the entities "funded, controlled, or directed this [*inter partes* review] IPR, or had the ability to control this IPR. For example, none of these companies had any authority over IPR decisions, participation in strategy or filings, role in expert selection or management." Ex. 1014 ¶ 4; *see* DD Opp. 17–19.

Before turning to the RPI issue, I address an issue of first impression: whether the U.S. Supreme Court's decision in *Return Mail, Inc. v. United States Postal Service*, 587 U.S. 618 (2019) applies to a foreign government just as it applies to the U.S. Government.

B. Return Mail *Bars a Foreign Government from Filing an IPR Petition*

The Leahy-Smith America Invents Act ("AIA") provides that only "a person" other than the patent owner may file a petition for an IPR. 35 U.S.C. § 311(a); *see also* 35 U.S.C. § 321(a) (setting forth same requirement as to post-grant reviews). In *Return Mail*, the Supreme Court held that a U.S. "federal agency is not a 'person' who may petition for post-issuance review under the AIA." *Return Mail*, 587 U.S. at 637. The Court, however, did not address whether this statutory prohibition extends to a *foreign* government.

As the Supreme Court explained, "[t]he patent statutes do not define the term 'person'" and, therefore, the Court "applies a 'longstanding interpretive presumption that "person" does not include the sovereign.'" *Return Mail*, 587 U.S. at 626 (quoting *Vermont Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 780–81 (2000)). This presumption rests, in part, on the absence of "governments" or "sovereigns"

from the definition of a "person" in the Dictionary Act. *See* 1 U.S.C. § 1; *Return Mail*, 587 U.S. at 627.

Applying the statutory presumption and the Dictionary Act, courts routinely interpret the term "person" in statutes to exclude *both* federal agencies and foreign governments. *See, e.g.*, *Sturdza v. United Arab Emirates*, 281 F.3d 1287, 1307 (D.C. Cir. 2002) ("[W]e agree with the district court that a foreign government is not a 'person' within the meaning of [42 U.S.C.] section 1985."); *Breard v. Greene*, 523 U.S. 371, 378 (1998) (determining that Paraguay is not a "person" as the term is used in 42 U.S.C. § 1983); *Dist. Att'y of N.Y. Cty. v. Republic of the Phil.*, No. 14-890, 2019 WL 13177047, at *1 (S.D.N.Y. June 11, 2019) ("[T]he [Supreme] Court's longstanding presumption against considering the sovereign as a person suggests that sovereign entities cannot appear 'personally.'") (citing *Return Mail*).

Based on *Return Mail* and cases applying the term "person" to foreign governments, a foreign government is not a "person" under the AIA, and therefore is not permitted to seek review of a patent before the Office as a petitioner in AIA proceedings. Thus, if a timely and successful challenge results in a finding that the status of a petitioner (or its RPI) is a foreign government, then the trial could not be instituted, or if instituted, would have to be terminated. *See Return Mail, Inc. v. United States Postal Serv.*, 774 F. App'x 684 (Fed. Cir. 2019) (nonprecedential) (remanding to the Board to dismiss for lack of jurisdiction).

Applying *Return Mail* symmetrically to foreign governments places those governments on equal footing with the U.S. Government and avoids institution practice allowing petitions from some government entities and denying petitions from others. To decide otherwise would create an unfair,

asymmetrical predicament: Foreign governments could challenge U.S. patents, including those owned by the U.S. Government, but the U.S. Government could not challenge patents owned by foreign governments (or anyone else's patents). Such a construct would be atypical of Congress's intent, to say the least.[1] *Cf. Price v. Socialist People's Libyan Arab Jamahiriya*, 294 F.3d 82, 96 (D.C. Cir. 2002) ("Indeed, we think it would be highly incongruous to afford greater Fifth Amendment rights to foreign nations, who are entirely alien to our constitutional system, than are afforded to the states, who help make up the very fabric of that system.").

For the same reasons, *Return Mail* also bars a petition when a foreign government is an RPI of a petitioner. To hold otherwise (*i.e.*, to conclude that so long as at least one petitioner is a "person" who filed an IPR petition), would create a ready recipe ripe for mischief. To be clear: "Opaque investment structures have been used by foreign adversaries to gain influence over, or access to, U.S. intellectual-property assets and proceedings. State-linked entities have covertly financed or directed U.S. patent challenges, acquisitions, or licensing transactions in sectors such as semiconductors, artificial intelligence, quantum computing, and advanced materials." Memorandum, Precedential designation of *Corning Optical Communications RF, LLC v. PPC Broadband Inc.*, IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (except for § II.E.1) (Oct. 28, 2025)

[1] Such an outcome would serve only to exacerbate national security and economic concerns as foreign governments—many with effectively unlimited resources—would be able to try to invalidate U.S. Government-owned or -licensed patents, or critical privately-owned patents, *ad infinitum*.

("Memorandum") 2.[2] In fact, "[e]ntities identified by the Office of Foreign Assets Control (OFAC) and the U.S. Trade Representative (USTR) have been sanctioned or listed for activities including technology misappropriation and forced technology transfer. OFAC and USTR designations, coupled with publicly reported front-entity behavior, demonstrate that foreign state actors have sought to manipulate U.S. IP systems, including administrative challenges before the PTAB, to weaken or misappropriate U.S. technological leadership." *Id.*

In this regard, I note that Tianma and companies on the Department of Commerce "entity list" (i.e., parties "involved in activities that are contrary to the national security or foreign policy interests of the United States") are frequent IPR petitioners. If treated as a single entity, such petitioners "collectively would be among the top 10 IPR petitioners for the period 2019–2024." *Id.* at 3; *see Study of high-volume filers and domestic university-related patentees in district court litigation and PTAB proceedings* (listing top IPR petitioners from 2019–2024).[3,4]

A government cannot evade the *Return Mail* bar simply by enlisting a "person" to do its IPR bidding. Otherwise, a foreign government—or, for that matter, a U.S. federal agency—could do an end-run around *Return Mail*. That is, the foreign government could simply shield a petition from dismissal by having one or more nominal petitioners file at the government's

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[2] Available at https://www.uspto.gov/sites/default/files/documents/Precedential_designation_of_Corning_Optical_Communications_RF_LLC_v._PPC_Broadband_Inc_Memo_-_Dated_10_28_25.pdf.
[3] Available at https://www.uspto.gov/sites/default/files/documents/HVF_study_presentation.pdf.
[4] The Memorandum lists 150 IPRs filed by such entities.

behest. *Cf. First Nat'l City Bank v. Banco Para El Comercio Exterior de Cuba*, 462 U.S. 611, 630 (1983) ("[T]he Court has consistently refused to give effect to the corporate form where it is interposed to defeat legislative policies."); *Hunt v. Mobil Oil Corp*., 550 F.2d 68, 78 n.14 (2d Cir. 1977) (dismissing a claim because plaintiff's complaint was directed to private party defendants who had entered into agreements with the government of Libya, which is not a "person").[5]

Today's decision is consistent with *Return Mail* and—even if *Return Mail* reached the opposite conclusion—would be comfortably within the Office's settled broad discretion in deciding whether to use its limited resources to institute IPR in any given case. *Apple Inc. v. Squires*, No. 2024-1864, 2026 WL 406495, at *7 (Fed. Cir. Feb. 13, 2026) ("[T]he Director has broad and protected discretion not to launch an IPR, even when the statutory pre-conditions are met."). Indeed, as to the exercise of discretion, as I stated in the Memorandum, "the integrity of PTAB proceedings depends on knowing who is behind a petition—who funds it, directs it, and/or benefits from it. Any opacity in that chain of control invites exploitation, may facilitate technology transfer contrary to U.S. law, regulation, and interests, and serves only to undermine public confidence in the integrity of the patent system." Memorandum 4. Notions of fundamental fairness dictate no other result.

[5] Further, an IPR filed by a petitioner with no foreign sovereign RPI as of the filing date should be terminated if a foreign sovereign later becomes an RPI during the pendency of the IPR (e.g., if a foreign sovereign acquires a controlling interest in the petitioner).

C. Patent Owner Sufficiently Put into Dispute Whether All RPIs Have Been Named and That an RPI is a Foreign Sovereign

Having established the appropriately congruent legal and policy framework pertaining to governments—whether foreign or domestic—that such entities may not properly be petitioners or RPIs, the factual questions remaining here are whether: (1) at the time the petition was filed, a foreign government was Petitioner's RPI and, therefore, the petition was barred; or (2) whether Patent Owner at least put the RPI question into dispute and, if so, whether Petitioner sufficiently rebutted that argument by showing that the foreign government was not an RPI.

Under Office precedent, petitioners have an obligation to identify all RPIs in their petitions. *Corning Optical Commc'ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (precedential, except § II.E.1) ("*Corning Optical*").[6] Here, as noted above, Patent Owner argues that a foreign government was an RPI and supports its argument with the following evidence: (1) Tianma's Corporate Disclosure Statement filed in litigation between the parties, which identifies AVIC Innovation as owning "10% or more" of Tianma's stock; (2) additional articles and reports indicating that AVIC owns AVIC Innovation and

[6] To assist the Office in identifying potential RPI issues early in a proceeding and to help determine whether recusal by Office personnel is necessary or appropriate, consistent with Federal court procedure, the Office expects each petitioner and patent owner to identify as part of their mandatory notices any parent corporation, entity, or person that owns 10% or more of that petitioner's or patent owner's stock, shares, or membership interests. *See* Fed. R. Civ. P. 7.1; Fed. R. App. P. 26.1. To be sure, percentage ownership (whether greater or lesser than 10%) is not necessarily dispositive of the RPI inquiry. In instances where a petitioner or a patent owner chooses not to identify this information, Board panels are authorized to request it as part of an RPI analysis.

Tianma; (3) AVIC's appearance on the entity list; and (4) Petitioner's identification of other foreign government-owned entities as RPIs in other IPR petitions it filed. DD Req. 7–8 (citing Exs. 2013–19).

Petitioner asserts that this evidence is insufficient to put the RPI question into dispute. DD Opp. 17–19. Petitioner responds, with nothing more than conclusory testimonial evidence, that none of the entities Patent Owner identifies are RPIs because none of the entities "funded, controlled, or directed this IPR, or had the ability to control this IPR. For example, none of these companies had any authority over IPR decisions, participation in strategy or filings, role in expert selection or management." Ex. 1014 ¶ 4; *see* DD Opp. 17–19.

Patent Owner's evidence is sufficient to put into dispute whether the Petition identified all RPIs and whether there is an RPI who is not a "person" eligible to file an IPR. *See Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1244 (Fed. Cir. 2018) ("[A] patent owner must produce *some* evidence that tends to show that a particular third party should be named a real party in interest."); *Yangtze Memory Techs. Co. v. Micron Tech., Inc.*, IPR2025-00098, Paper 38 at 7 (Director Jan. 15, 2026) (informative) (explaining that the Office's "mandate to protect the public interest is especially compelling" where a petitioner does not identify all RPIs). Patent Owner's evidence that Petitioner is owned by AVIC Innovation and AVIC, AVIC is owned by a foreign government, and AVIC is included on the entity list is particularly persuasive. DD Req. 7–8 (citing Exs. 2013–19).

D. Petitioner Has Not Met Its Burden

With its identification of RPIs in dispute, it is Petitioner's burden to bring forth evidence or arguments demonstrating that it had named all RPIs—and that none were foreign governments or entities a foreign

government had the ability to control. *Worlds*, 903 F.3d at 1242 ("[B]ecause the IPR petitioner is the party seeking an order [i.e., a final decision of unpatentability] from the Board, [5 U.S.C.] § 556(d) requires the petitioner to bear the burden of persuasion."). Although Petitioner has admitted in court proceedings that AVIC is a significant shareholder, Petitioner does not provide any documents clarifying its relationship with AVIC, such as documents describing the rights attendant to AVIC's shares. Instead, Petitioner submits a conclusory declaration that simply states that none of the entities Patent Owner identifies funded, controlled, or directed the IPR, or had the ability to control the IPR. DD Opp. 17–19 (citing Ex. 1014 ¶ 4). This type of declaration alone, unsupported by relevant documents, is insufficient to rebut Patent Owner's credible arguments that Petitioner failed to name all RPIs. As a result, on this record, Petitioner fails to carry its burden to establish that a foreign government is not an RPI. Accordingly, Petitioner is deemed ineligible to file an IPR and the Petition is denied.

In consideration of the foregoing, it is:

ORDERED that the Petition is *denied*, and no trial is instituted.

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