

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

February 7, 2023

RAVI SHARMA,)	
Complainant,)	
)	
v.)	8 U.S.C. § 1324b Proceeding
)	OCAHO Case No. 2022B00023
)	
NVIDIA CORP.,)	
Respondent.)	
_____)	

Appearances: Ravi Sharma, pro se Complainant
Patrick Shen, Esq., K. Edward Raleigh, Esq., and Samantha Caesar, Esq.,
for Respondent

ORDER REJECTING COMPLAINANT’S JANUARY 24, 2023 FILING

On January 18, 2023, the Court issued an Order Denying Motions to Compel. In its Order, the Court, *inter alia*, adjudicated a December 16, 2022 motion from Complainant that requested additional discovery. *See* Jan. 18, 2023 Order ¶¶ 5, 10–11. Complainant’s request arose from his concerns with two NVIDIA employee declarations. *See id.* at 5. Complainant attached “rebuttals” of these declarations to his December 16, 2022 motion.¹ Dec. 16, 2022 Mot. Ex. A (Rebuttal to Declaration of Leon Lixingyu), Ex. B (Rebuttal to Declaration of Aswin Raghav Krishna).

¹ As the Court explained in its Order Denying Motions to Compel, Complainant did not “demonstrat[e] how any additional discovery related to the declarations would be relevant.” Jan. 18, 2023 Order ¶ 10. The Court also noted:

Disputes related to Respondent’s Answer fall outside the scope of discovery. These issues are best addressed by way of dispositive motions or at hearing. While the Court declines to address arguments related to Respondent’s Answer, Complainant should understand he is not precluded from raising them once more at a later stage in these proceedings.

Id. at 5, n.5.

On January 24, 2023, Complainant filed a “Supplemental Rebuttal to Declaration of Leon Lixingyu.” Through this submission, Complainant seeks to provide additional evidence pertaining to the Declaration of Leon Lixingyu. This filing is not a motion,² rather it is an unsolicited evidentiary submission. *See generally* 28 C.F.R. § 68.11 (providing that evidence to be submitted as part of a motion). Because the submission is not accompanied by a motion, rejection at this juncture is appropriate. Separately, an unsolicited evidentiary submission runs afoul of the Court’s obligation to ensure a clear record (i.e., a clear understanding of what is in the record and thus will be considered). *See also United States v. Fasakin*, 15 OCAHO no. 1375c, 3 (2021)³ (citing 5 U.S.C. § 556(e)⁴) (explaining record development through the hearing process).⁵

For these reasons, the Court **REJECTS** Complainant’s January 24, 2023 submission.⁶

SO ORDERED.

Dated and entered on February 7, 2023.

Honorable Andrea R. Carroll-Tipton
Administrative Law Judge

² *See* 28 C.F.R. § 68.2 (defining a motion as a “request . . . for some action by an Administrative Law Judge”); § 68.11(a) (“[A]ny application for an order or any other request shall be made by motion . . . [and] shall state with particularity the grounds thereof, and shall set forth the relief or order sought.”).t

³ Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database “FIM-OCAHO,” or in the LexisNexis database “OCAHO,” or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

⁴ OCAHO proceedings are conducted in accordance with the Administrative Procedure Act (APA). *See* 28 C.F.R. § 68.1.

⁵ *Cf. Tonapetyan v. Halter*, 242 F.3d 1144, 1150 (9th Cir. 2001) (referencing the administrative law judge’s “duty to develop the record fully” in other APA proceedings.)

⁶ The Court is not opining on the contents of the submission at this juncture, and it is important to explain to this pro se Complainant that he is not precluded from submitting evidence as an attachment to any dispositive motion filing, or in response to any future order related to a hearing. *See* 28 C.F.R. § 68.38 (motions for summary decision); § 68.39 (formal hearings).