

## Exhibit 6

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571-272-7822

Paper 16  
Date: December 23, 2013

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CORNING GILBERT INC.  
Petitioner,

v.

PPC BROADBAND, INC.  
Patent Owner.

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Case IPR2013-00343  
Patent 8,313,353

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Before JAMESON LEE, MICHAEL R. ZECHER, and  
JACQUELINE WRIGHT BONILLA, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

ORDER  
Conduct of Proceeding  
37 C.F.R. § 42.5

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### Introduction

This *inter partes* review was instituted on December 5, 2013 (Paper 14), and final hearing was scheduled for June 23, 2014 (Paper 15). A joint telephone conference call was held on December 18, 2013. The participants of the call were Judges Lee, Zecher, and Bonilla, and respective counsel for the parties.

Counsel for Petitioner initiated the conference call to request a change of each of Due Dates 1-7, which were set in the Scheduling Order dated December 5, 2013 (Paper 15). Petitioner requested an extension of approximately twelve (12) weeks for each of Due Dates 1-7. Patent Owner does not oppose the request.

### Discussion

Counsel for the Petitioner explained that Petitioner's expert witness, Dr. Mroczkowski, has been diagnosed with cancer, and recently has undergone surgery. Counsel for the petitioner also explained that Dr. Mroczkowski will be receiving weekly chemotherapy and daily radiation treatment between now and the beginning of February. Counsel for Petitioner noted that if the twelve week extension requested by Petitioner does not leave enough time for the Board to write the final written decision within the 1-year time period specified in 35 U.S.C. § 316(a)(11), commencing from the date of the notice of institution of review, 35 U.S.C. § 316(a)(11) provides that the Director may, for good cause shown, extend the 1-year time period by not more than six months.

The Board explained that the "up to six months" extension potentially available under 35 U.S.C. § 316(a)(11), for good cause, has a high bar, and likely would not apply if the situation can be resolved reasonably in another way. It is premature to be contemplating an extension under 35 U.S.C. § 316(a)(11), before Petitioner has attempted other ways to respond to the circumstance. The Board noted, for instance, that Petitioner may, with a much shorter extension, attempt to

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locate another expert who would be willing to present the same testimony as Dr. Mroczkowski. The Board further noted that Petitioner should be proceeding in that direction, in any event, to provide an option that is different from assuming the availability of Dr. Mroczkowski in a particular time period for cross-examination, because there is no certainty on what additional therapy Dr. Mroczkowski may need beyond that already noted by counsel for Petitioner.

The Board considers reasonable an extension of approximately five weeks for Petitioner to locate and substitute, for Dr. Mroczkowski, another expert witness who would be willing to execute the same declaration executed by Dr. Mroczkowski, excluding the credentials and qualifications of Dr. Mroczkowski. Counsel for Petitioner expressed that obtaining another expert at this time would add to Petitioner's cost, perhaps unnecessarily, because Dr. Mroczkowski may recover in time to be cross-examined.

The Board explained that approximately five weeks will be provided to Petitioner to make an effort to resolve the difficulty presented by the illness of Petitioner's original expert witness. Petitioner is free to forego that opportunity, and to depend on Dr. Mroczkowski's getting well enough to be cross-examined at an appropriate time according to a revised schedule including the five-week extension. In that case, however, Petitioner will have made a litigation choice, and assumed the risk of events not proceeding according to plan.

#### Order

It is

ORDERED that Petitioner's request for a time extension of approximately twelve weeks is *denied*;

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FURTHER ORDERED that Due Dates 4 through 7 in the Scheduling Order dated December 5, 2013 (Paper 15) are reset as follows, to reflect an extension of approximately five weeks for each due date:

Due Date 4: June 25, 2013;

Due Date 5: July 9, 2013;

Due Date 6: July 16, 2013;

Due Date 7: July 25, 2013;

FURTHER ORDERED that the parties may stipulate to different dates for Due Dates 1-3 set in the Scheduling Order dated December 5, 2013 (Paper 15), so long as Due Dates 1-3 are no later than June 25, 2013; and

FURTHER ORDERED that if Petitioner is unable, after making diligent efforts within the next five weeks, to obtain another expert witness who is willing to execute the same declaration executed by Dr. Mroczkowski, except for the portions concerning the credentials and qualifications of Dr. Mroczkowski, Petitioner should initiate another telephone conference call with the Board.

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