

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

SIGHTSOUND TECHNOLOGIES, LLC
Patent Owner

Case CBM2013-00020
Patent 5,191,573

Before MICHAEL P. TIERNEY, JUSTIN T. ARBES, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

ARBES, *Administrative Patent Judge*.

SCHEDULING ORDER

A. DUE DATES

This order sets due dates for the parties to take action in this trial. The parties may stipulate to different dates for DUE DATES 1 through 3 (earlier or later, but no later than DUE DATE 4). A notice of the stipulation, specifically identifying the changed due dates, must be promptly filed. The parties may not stipulate to an extension of DUE DATES 4-7.

In stipulating to different times, the parties should consider the effect of the stipulation on times to object to evidence (37 C.F.R. § 42.64(b)(1)), to supplement evidence (37 C.F.R. § 42.64(b)(2)), to conduct cross-examination (37 C.F.R. § 42.53(d)(2)), and to draft papers depending on the evidence and cross-examination testimony (*see* Section B).

The parties are reminded that the Testimony Guidelines appended to the Trial Practice Guide, 77 *Fed. Reg.* 48756, 48772 (Aug. 14, 2012) (Appendix D), apply to this trial. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorneys' fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness.

1. DUE DATE 1

The patent owner may file a response to the petition (37 C.F.R. § 42.120). The patent owner must file any such response by DUE DATE 1. If the patent owner elects not to file anything, the patent owner must arrange a conference call with the parties and the Board. The patent owner is cautioned that any arguments for patentability not raised and fully briefed in the response will be deemed waived.

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2. DUE DATE 2

The petitioner must file any reply to the patent owner's response by DUE DATE 2.

3. DUE DATE 3

None.

4. DUE DATE 4

Each party must file any motion to exclude evidence (37 C.F.R. § 42.64(c)) and any request for oral argument (37 C.F.R. § 42.70(a)) by DUE DATE 4.

5. DUE DATE 5

Each party must file any opposition to a motion to exclude evidence by DUE DATE 5.

6. DUE DATE 6

Each party must file any reply for a motion to exclude evidence by DUE DATE 6.

7. DUE DATE 7

The oral argument (if requested by either party) is set for DUE DATE 7.

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B. CROSS-EXAMINATION

Except as the parties might otherwise agree, for each due date—

1. Cross-examination begins after any supplemental evidence is due.

37 C.F.R. § 42.53(d)(2).

2. Cross-examination ends no later than a week before the filing date for any paper in which the cross-examination testimony is expected to be used. *Id.*

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DUE DATE APPENDIX

DUE DATE 1.....December 9, 2013
 Patent owner's response to the petition

DUE DATE 2.....February 7, 2014
 Petitioner's reply to patent owner response to petition

DUE DATE 3¹
 None

DUE DATE 4.....March 28, 2014
 Motion to exclude evidence
 Request for oral argument

DUE DATE 5.....April 11, 2014
 Opposition to motion to exclude

DUE DATE 6.....April 18, 2014
 Reply to opposition to motion to exclude

DUE DATE 7.....May 6, 2014
 Oral argument (if requested)

¹ Because the challenged patent has expired and may not be amended, no due date is being set for DUE DATE 3. The numbering of due dates remains the same, however, to maintain consistency with the schedule in related Case CBM2013-00023.

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