

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EBAY ENTERPRISE, INC. and EBAY, INC.
Petitioner

v.

LAWRENCE B. LOCKWOOD¹
Patent Owner

Cases CBM2014-00025 (Patent 7,010,508)
CBM2014-00026 (Patent 5,576,951)²

Before SALLY C. MEDLEY and BENJAMIN D. M. WOOD,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

ORDER

¹ Both Petitioner and Patent Owner filed updated notices pursuant to 37 C.F.R. § 42.8 updating real parties-in-interest information. *See, e.g.*, CBM2014-00025, Papers 14, 16 and CBM2014-00026, Papers 15, 17. Accordingly, the parties shall use the updated title shown here, reflective of the current real parties-in-interest, for any further filings in either proceeding.

² This order addresses similar issues raised in both cases. We exercise discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

CBM2014-00025 (Patent 7,010,508)

CBM2014-00026 (Patent 5,576,951)

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

On April 25, 2014, a conference call was held between counsel for the respective parties and Judges Medley and Wood.

The purpose of the conference call was for Petitioner to seek authorization to submit briefing, along with a declaration, describing the relationship between Petitioner and its customer iRobot who was sued for infringement of the involved patents. Patent Owner opposed the request.

Based on the record before us, Petitioner is authorized to provide additional briefing to address (1) the facts behind the late request for further briefing, (2) the relationship between Petitioner and its customer iRobot, and (3) the dismissal with prejudice of the case styled *Landmark Technology, LLC v. iRobot Corporation* (E.D.Tex. May 22, 2013) (NO. 6-13-cv-00411). In addition, Petitioner may submit a declaration, limited to no more than 5 pages, in support of issues 1 and 2. Patent Owner is authorized to file a response to Petitioner's additional briefing. No other briefing is authorized.³

Accordingly, it is

ORDERED that Petitioner is authorized to file, no later than April 29, 2014, a brief limited to 7 pages, along with a declaration limited to 5 pages, as set forth per this order; and

FURTHER ORDERED that Patent Owner may file, no later than May

³ During the conference call, counsel for Petitioner represented that Petitioner has standing for the additional reason that it (eBay Inc.) has been charged with infringement. This assertion was raised in CBM2014-00026 (Paper 1 at 3), but not in CBM2014-00025. Petitioner is not authorized to submit additional briefing or evidence regarding this additional standing issue.

CBM2014-00025 (Patent 7,010,508)

CBM2014-00026 (Patent 5,576,951)

2, 2014, a response limited to 7 pages, as set forth per this order.

PETITIONER:

Don Daybell
James Maune
Orrick, Herrington & Sutcliffe LLP
ddaybell@orrick.com
jmaune@orrick.com

PATENT OWNER:

Robert Sterne
Donald Featherstone
Jason Eisenberg
Richard Bemben
Byron Pickard
Sterne, Kessler, Goldstein & Fox PLLC
rsterne@skgf.com
donf-PTAB@skgf.com
jasone-PTAB@skgf.com
rbemben-PTAB@skgf.com
bpickard-PTAB@skgf.com