

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JPMORGAN CHASE & CO. AND JPMORGAN CHASE BANK, N.A.,  
Petitioner,

v.

MAXIM INTEGRATED PRODUCTS, INC.,  
Patent Owner.

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Case CBM2014-00180  
Patent 5,949,880

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Before TREVOR M. JEFFERSON, MITCHELL G. WEATHERLY, and  
KERRY BEGLEY, *Administrative Patent Judges*.

BEGLEY, *Administrative Patent Judge*.

CASE MANAGEMENT  
AND SCHEDULING ORDER  
*37 C.F.R. § 42.5*

A. INITIAL CONFERENCE CALL

Unless at least one of the parties requests otherwise, we will not conduct an initial conference call as described in the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,765–66 (Aug. 14, 2012). In lieu of such a call, we instruct the parties as follows:

- (1) If a party wishes to request an initial conference call, that party shall request the call no later than 25 days after the institution of trial;
- (2) A request for a conference call shall include: (a) a list of proposed motions, if any, to be discussed during the call and (b) a list of dates and times when the parties are available for the call; and
- (3) The parties shall be prepared to discuss during the initial conference call their concerns, if any, relating to the schedule in this proceeding as set forth below.

Absent good cause shown, we will not conduct an initial conference call later than 30 days after the institution of a trial.

## B. GENERAL INSTRUCTIONS

### 1. *Protective Order*

A protective order does not exist in this proceeding unless the parties file one and the Board approves it. If either party files a motion to seal before entry of a protective order, a jointly proposed protective order should be presented as an exhibit to the motion. We encourage the parties to adopt the Board's default protective order if they conclude that a protective order is necessary. *See* Default Protective Order, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, App. B (Aug. 14, 2012). If the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly along with a marked-up comparison of the proposed and default protective orders showing the differences.

The Board has a strong interest in the public availability of the proceedings. We advise the parties that redactions to documents filed in this

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proceeding should be limited strictly to isolated passages consisting entirely of confidential information, and that the thrust of the underlying argument or evidence must be clearly discernible from the redacted versions. We also advise the parties that information subject to a protective order will become public if identified in a final written decision in this proceeding, and that a motion to expunge the information will not necessarily prevail over the public interest in maintaining a complete and understandable file history. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,761.

### *2. Motions to Amend*

Patent Owner may file a motion to amend without prior authorization from the Board. Nevertheless, the Patent Owner must confer with the Board before filing such a motion. 37 C.F.R. § 42.221(a). We direct the parties to the Board's website for representative decisions relating to Motions to Amend among other topics. The parties may access these representative decisions at: [http://www.uspto.gov/ip/boards/bpai/representative\\_orders\\_and\\_opinions.jsp](http://www.uspto.gov/ip/boards/bpai/representative_orders_and_opinions.jsp).

### *3. Discovery Disputes*

The Panel encourages parties to resolve disputes relating to discovery on their own and in accordance with the precepts set forth in 37 C.F.R. § 42.1(b). To the extent that a dispute arises between the parties relating to discovery, the parties shall meet and confer to resolve such a dispute before contacting the Board. If attempts to resolve the dispute fail, a party may request a conference call with the Board and the other party in order to seek authorization to move for relief.

In any request for a conference call with the Board to resolve a discovery dispute, the requesting party shall: (a) certify that it has conferred with the other party in an effort to resolve the dispute; (b) identify with

specificity the issues for which agreement has not been reached; (c) identify the precise relief to be sought; and (d) propose specific dates and times at which both parties are available for the conference call.

#### *4. Depositions*

The parties are advised that the Testimony Guidelines appended to the Office Patent Trial Practice Guide, 77 Fed.Reg. 48,756, 48,772 (Aug. 14, 2012) (Appendix D), apply to this proceeding. 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.

Whenever a party submits a deposition transcript as an exhibit in this proceeding, the submitting party shall file the full transcript of the deposition rather than excerpts of only those portions being cited. After a deposition transcript has been submitted as an exhibit, all parties who subsequently cite to portions of the transcript shall cite to the first-filed exhibit rather than submitting another copy of the same transcript.

#### C. DUE DATES

This order sets due dates for the parties to take action after institution of the proceeding. The parties may stipulate to different dates for DUE DATES 1 through 5 (earlier or later, but no later than DUE DATE 6). 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 6 and 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 D, below).

*1. DUE DATE 1*

The patent owner may file—

- a. A response to the petition (37 C.F.R. § 42.220), and
- b. A motion to amend the patent (37 C.F.R. § 42.221).

The patent owner must file any such response or motion to amend 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 in the response will be deemed waived.

*2. DUE DATE 2*

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

*3. DUE DATE 3*

The patent owner must file any reply to the petitioner's opposition to patent owner's motion to amend by DUE DATE 3.

*4. DUE DATE 4*

a. Each party must file any motion for an observation on the cross-examination testimony of a reply witness (*see* section E, below) by DUE DATE 4.

b. 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.

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