

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SCHRADER-BRIDGEPORT INTERNATIONAL, INC. et al.  
Petitioner

v.

CONTINENTAL AUTOMOTIVE SYSTEMS US, INC.  
Patent Owner

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Case IPR2013-00014  
Patent 6,998,973

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Before SALLY C. MEDLEY, JOSIAH C. COCKS, and MICHAEL W. KIM  
*Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

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

On April 15, 2013, the following individuals participated in the initial conference call:<sup>1</sup>

- (1) Mr. Bryan Collins and Mr. Robert Fuhrer, counsel for Schrader;
- (2) Mr. Timothy Baumann<sup>2</sup> and Mr. Steven Parmelee, counsel for Continental; and
- (3) Sally Medley, Josiah Cocks, and Michael Kim, Administrative Patent Judges.

#### *Motions List*

In preparation for the initial call, both parties filed a motions list. Papers 16 and 17. Schrader does not seek authorization to file any motions. However, Continental does. The parties were reminded that the purpose of the motions list is to provide the Board and an opposing party adequate notice to prepare for the initial call and the proceeding. *See, e.g., 37 C.F.R. § 42.21(a) and Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48765 (Aug. 14, 2012).* In particular, the list should contain a short, concise statement generally relaying enough information for the Board and opposing counsel to understand the proposed motion. As explained during the call, Continental's motions list with respect to its proposed motion for discovery does not provide adequate notice. Instead of dismissing the motions list, the Board determined to proceed with the motions list information, and any other information provided during the conference call, to determine whether to authorize a motion for discovery.

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<sup>1</sup> The initial conference call is held to discuss the Scheduling Order and any motions that the parties anticipate filing during the trial. *Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48765 (Aug. 14, 2012).*

<sup>2</sup> Messrs. Boyd Cloern and Benjamin Warlick, counsel for Continental in the related litigation were also present. Counsel for Schrader did not object to their presence and limited participation.

*Pro Hac Vice Admission*

Continental requests authorization to file a motion for *pro hac vice* admission of Boyd Cloern and Benjamin Warlick. Paper 16.

Section 42.10(c) provides that:

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

The Board authorizes both parties to file motions<sup>3</sup> for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Such motions shall be filed in accordance with the “ORDER – AUTHORIZING MOTION FOR *PRO HAC VICE* ADMISSION” in Case IPR2013-00010 (MPT), a copy of which is available on the Board Web site under “Representative Orders, Decisions, and Notices.” Note, however, that the Office published a Final Rule adopting new Rules of Professional Conduct. *See Changes to representation of others Before the United States Patent and Trademark Office; Final Rule, 78 Fed. Reg. 20180* (Apr. 3, 2013). The changes set forth in that Final Rule take effect on May 3, 2013. Any motion for *pro hac vice* admission filed by the parties should also indicate that the person sought to be admitted will be subject to the Office’s new Rules of Professional Conduct which become effective on May 3, 2013.

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<sup>3</sup> As discussed in connection with Continental’s *pro hac vice* motion, the Board prefers a single motion; however Continental is authorized to file two separate motions for *pro hac vice* admission of the two individuals if needed.

*Motion to Amend*

During the call, counsel for Continental represented that at this time, Continental does not intend to file a motion to amend. As discussed, if Continental determines that it will file a motion to amend, Continental must arrange a conference call with the Board and opposing counsel to discuss the proposed motion to amend.

*Proposed Motion for Discovery*

The parties were reminded that they may agree to additional discovery between themselves, and only if they disagree is it necessary to seek Board authorization to file a motion for additional discovery. 37 CFR § 42.51(b)(2). Based on the facts presented during the initial conference call, it became apparent that the parties may be able to work out an agreement regarding the additional discovery Continental seeks to obtain from Schrader. Counsel for the respective parties are commended for their decorum and their willingness to work together to try to come to such an agreement. For the above reasons, Continental is not authorized to file a motion for additional discovery at this time.

*Schedule*

Counsel for the respective parties indicated that they have no issues with the Scheduling Order (Paper 13) entered on March 13, 2013.

*Settlement*

Lastly, the parties represented that they have no report regarding settlement.

*Order*

It is

**ORDERED** that the parties are authorized to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c), and that such motions shall be filed in accordance with the “ORDER – AUTHORIZING MOTION FOR *PRO HAC VICE*

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ADMISSION” in Case IPR2013-00010 (MPT), a copy of which is available on the Board Web site under “Representative Orders, Decisions, and Notices;” any such motion shall indicate that the person sought to be admitted will be subject to the Office’s new Rules of Professional Conduct which become effective on May 3, 2013; and

**FURTHER ORDERED** that no other motions are authorized at this time.

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