

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LKQ CORPORATION
Petitioner,

v.

CLEARLAMP, LLC
Patent Owner.

Case IPR2013-00020 (SCM)
Patent 7,297,364 B2

Before SALLY C. MEDLEY, KEVIN F. TURNER, and
JOSIAH C. COCKS, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

On June 26, 2013, the following individuals participated in a conference
call:

- (1) Mr. Alan Barry and Mr. Jason Engel, counsel for LKQ;
- (2) Mr. Bryan Wheelock, counsel for Clearlamp; and

(3) Sally Medley, Kevin Turner, and Josiah Cocks, Administrative Patent Judges.

The purpose of the conference call was for the parties to seek guidance regarding a motion to seal, a protective order, and a motion to amend.

Motion to Seal and Protective Order

Counsel for Clearlamp explained that in support of its Patent Owner Response, Clearlamp intends to rely on evidence obtained in the related litigation. This evidence is apparently subject to a district court protective order. Clearlamp requests to submit the evidence under seal.

As explained, the record files for an inter partes review shall be made available to the public, except that a document filed with a motion to seal shall be treated as sealed until the motion is decided. 35 U.S.C. § 316 (a)(1); 37 C.F.R. § 42.14. A party may file a motion to seal where the motion contains a proposed protective order, such as the default protective order set forth in the Office Patent Trial Practice Guide. The standard for granting a motion to seal is good cause. 37 C.F.R. § 42.54(a).

Counsel for the respective parties indicated that they have a protective order that is very close to the Board's default protective order. As explained, any changes between the default protective order and the parties' proposed protective order must be explained in the motion to seal. Moreover, the parties should file a separate redlined version of the proposed protective order showing the differences between the default protective order and the proposed protective order.

Motion to amend

Counsel for Clearlamp indicated that Clearlamp will file a motion to amend. General guidance was provided during the call regarding motions to amend. The parties are directed to the Patent Trial Practice Guide for guidance. *See Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48766-48767 (Aug. 14, 2012). More specifically, in any motion to amend that Clearlamp files, the motion must explain in detail how the proposed substitute claims obviates the grounds of unpatentability authorized in this trial and clearly identify where corresponding written description support in the specification can be found for each claim added. If the motion to amend includes a proposed substitution of claims beyond a one-for-one substitution, the motion must explain why more than a one-for-one substitution of claims is necessary. 37 C.F.R. § 42.121. For further guidance regarding these requirements, the parties are directed to Board decisions: (1) IPR2012-00005, Paper 27 (June 3, 2013) and (2) IPR2012-00027, Paper 26 (June 11, 2013).

Counsel for Clearlamp requested a page extension of the fifteen page limit for its motion to amend. The request was denied as premature. Counsel for Clearlamp did not represent that he had a complete draft that was currently over the allotted page limit. The parties are encouraged to stay within the confines of the regulations for the proceeding. As further explained, Clearlamp should consider that it need not substitute a claim for each claim involved in the case. A single claim may suffice.

Order

It is

ORDERED that Clearlamp's request for an extension of the page limit for its motion to amend is *denied*;

FURTHER ORDERED that the parties are authorized to file a motion to seal along with a proposed protective order; and

FURTHER ORDERED that the parties identify in a separate redlined or marked up copy, how the proposed protective order departs from the Board's default protective order appearing in the Trial Practice Guide.

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