

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 November 5, 2013, a conference call was held between counsel for the respective parties and Judges Medley, Turner, and Cocks.

The purpose of the conference call was for the parties to seek guidance on whether Petitioner may cross-examine two of Patent Owner's witnesses.

In support of Patent Owner's reply to Petitioner's opposition to Patent Owner's motion to amend, Patent Owner relies on the declaration of A. Harvey Bell (Ex. 2004, ¶¶ 54-55, and 79) and the declaration of Dimitris Katsamberis (Ex. 2007, ¶¶ 27-29). Paper 55 at 3-4 ("Patent Owner's reply"). According to counsel for the respective parties, Patent Owner did not rely on either declaration in support of Patent Owner's motion to amend (Paper 38), but did rely on both declarations in support of Patent Owner's response (Paper 33). Petitioner cross-examined both witnesses as to the declarations they made in support of Patent Owner's response.

Based on the discussion had during the conference call, Petitioner withdrew its request to cross-examine Mr. Katsamberis, but argued that it should be able to cross-examine A. Harvey Bell. Specifically, counsel for Petitioner argued that Mr. Bell's testimony was relied on in a different light in the context of Patent Owner's reply than how it was relied on in the context of Patent Owner's response. As such, Petitioner argues that it should be authorized to cross-examine Mr. Bell. Patent Owner opposed any additional cross-examination of Mr. Bell. Based on the discussion had, the Board agrees with the Petitioner and authorizes Petitioner to cross-examine Mr. Bell. As explained, the scope of the cross-examination shall be limited to questioning Mr. Bell on his statements made in Exhibit 2004, ¶¶ 54-55, and 79.

Order

It is

ORDERED that Petitioner is authorized to cross-examine A. Harvey Bell and that the scope of the cross-examination shall be limited to questioning Mr. Bell on his statements made in Exhibit 2004, ¶¶ 54-55, and 79.

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