

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVAYA INC., DELL INC., SONY CORPORATION OF AMERICA,
and HEWLETT-PACKARD CO.
Petitioners

v.

NETWORK-1 SECURITY SOLUTIONS, INC.
Patent Owner

Case IPR2013-00071¹
Patent 6,218,930

Before JONI Y. CHANG, JUSTIN T. ARBES, and GLENN J. PERRY,
Administrative Patent Judges.

ARBES, *Administrative Patent Judge.*

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

A conference call in the above proceeding was held on
November 13, 2013 among counsel for Petitioners Avaya Inc. (“Avaya”),

¹ Cases IPR2013-00385 and IPR2013-00495 have been joined with this proceeding.

Sony Corporation of America, and Hewlett-Packard Co.; counsel for Patent Owner; and Judges Chang, Arbes, and Perry. The call was requested by Patent Owner to seek an extension of DUE DATES 4-6 in the Revised Scheduling Order (Paper 51).

Patent Owner stated that it anticipates filing, with its reply to Avaya's opposition to Patent Owner's motion to amend due on November 14, 2013, a new declaration from Dr. James Knox. According to Patent Owner, however, Dr. Knox is unavailable for deposition until December 3, 2013. Therefore, Patent Owner requested that DUE DATES 4-6 be postponed so that Avaya may depose Dr. Knox and prepare any motion for observation it desires to file by DUE DATE 4. Avaya opposed Patent Owner's request, arguing that Patent Owner should not be permitted to rely on a reply witness unless it makes the witness available for deposition during the required time period. Avaya further requested that, if DUE DATE 4 is extended to permit a later deposition of Dr. Knox, Avaya should be permitted the same number of days between DUE DATES 4 and 5 as are present in the existing schedule.

Patent Owner also requested that DUE DATE 7 (oral argument) be postponed from January 17, 2014 to at least January 27, 2014 because one of its back-up counsel in the instant proceeding, Greg Dovel, has a district court trial scheduled to begin on January 13, 2014. Patent Owner did not represent that its other designated counsel—lead counsel Robert G. Mukai and back-up counsel Charles F. Wieland III—are similarly unavailable on January 17, 2014. *See* Paper 8. Avaya opposed Patent Owner's request, but stated that it needed to check its counsel schedules regarding other potential dates on which it may be available for oral argument.

As discussed during the call, the Board is persuaded that minor extensions of DUE DATES 4-6 are appropriate to accommodate the deposition of Dr. Knox and related briefing, and would not be unduly prejudicial to Petitioners. A Revised Scheduling Order will be entered setting the following dates:

DUE DATE 4	December 11, 2013
DUE DATE 5	December 23, 2013
DUE DATE 6	December 30, 2013

However, given the need for the Board to complete this proceeding in an efficient and expeditious manner and the fact that Patent Owner has other counsel available for oral argument on January 17, 2014, DUE DATE 7 will not be postponed. Patent Owner indicated during the call that Mr. Dovel is available the week of January 6, 2014. Petitioners and Patent Owner shall confer and provide to the Board multiple alternative dates during the week of January 6, 2014 on which counsel for all parties are available for oral argument. Patent Owner's request to move DUE DATE 7 will be subject to Board availability.

In consideration of the foregoing, it is hereby:

ORDERED that Petitioners and Patent Owner shall confer and provide, by email to *Trials@uspto.gov* by November 14, 2013, multiple dates during the week of January 6, 2014 on which counsel for all parties are available for oral argument.

Case IPR2013-00071
Patent 6,218,930

PETITIONERS:

Jeffrey D. Sanok
Jonathan Lindsay
CROWELL & MORING LLP
JSanok@Crowell.com
JLindsay@Crowell.com

Michael J. Scheer
Thomas M. Dunham
WINSTON & STRAWN LLP
mscheer@winston.com
tdunham@winston.com

Lionel M. Lavenue
Erika Arner
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
lionel.lavenue@finnegan.com
erika.arnier@finnegan.com

Robert J. Walters
Charles J. Hawkins
McDERMOTT WILL & EMERY LLP
rwalters@mwe.com
chawkins@mwe.com

PATENT OWNER:

Robert G. Mukai
Charles F. Wieland III
BUCHANAN, INGERSOLL & ROONEY P.C.
Robert.Mukai@BIPC.com
Charles.Wieland@BIPC.com