

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MUNCHKIN, INC. AND TOYS “R” US, INC.  
Petitioners

v.

LUV N’ CARE, LTD.  
Patent Owner

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Case IPR2013-00072  
Patent D617,465

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Before JENNIFER S. BISK, *Administrative Patent Judge*.

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

On January 14, 2014, Patent Owner requested, via email, a change in the date of the final oral argument, currently scheduled for January 22, 2014, due to a scheduling conflict on the part of its lead counsel. Patent Owner provides several alternate dates, including January 23, 27, 28, 29, and 30, and represents that Petitioner consents to this request.

Patent Owner has not explained why Back-up Counsel is not available for the scheduled oral argument date. *See* 37 C.F.R. § 42.10(a) (“If a party is represented by counsel, the party must designate a lead counsel and a back-up counsel who can conduct business on behalf of the lead counsel.”). Moreover, the scheduling conflict arose after the date for final argument was set. Specifically, the hearing date, only eight days away at the time of Patent Owner’s request, was set in April 2013 to give the parties ample notice. Paper 9 (“Scheduling Order”). Subsequently, in a conference call on June 6, 2013, counsel for Patent Owner represented that there was no need to modify any dates set in the Scheduling Order, which included the January 22, 2014, hearing date. Paper 12.

The schedules of all involved must be considered in determining whether to alter a scheduled oral argument date, including the resources of the Board. Under the circumstances, the Board cannot accommodate Patent Owner’s request to change the original hearing date.

Accordingly, it is

ORDERED that Patent Owner’s request to reset the date for the final oral argument is denied.

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