

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMC CORPORATION

Petitioner,

v.

PERSONALWEB TECHNOLOGIES, LLC

Patent Owner.

Cases IPR2013-00082 (Patent 5,978,791)

IPR2013-00083 (Patent 6,415,280)

IPR2013-00084 (Patent 7,945,544)

IPR2013-00085 (Patent 7,945,539)

IPR2013-00086 (Patent 7,949,662)

IPR2013-00087 (Patent 8,001,096)¹

Before KEVIN F. TURNER, JONI Y. CHANG, and
MICHAEL R. ZECHER, *Administrative Patent Judges.*

CHANG, *Administrative Patent Judge*

ORDER

Conduct of the Proceeding

37 C.F.R. § 42.5

¹ This Order addresses issues that are identical in all six cases. Therefore, we exercise our discretion to issue one opinion to be filed in each of the six cases. The parties, however, are not authorized to use this style heading in any subsequent papers. Note that the petitioners for IPR2013-00082 and IPR2013-00083 are EMC Corporation and VMware, Inc.

IPR2013-00082, Patent 5,978,791
IPR2013-00083, Patent 6,415,280
IPR2013-00084, Patent 7,945,544

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IPR2013-00087, Patent 8,001,096

On June 3, 2013, the initial conference call for the six above-identified trials was held between respective counsel for the parties and Judges Turner, Chang, and Zecher. The purpose of the call was to discuss the motions that the parties intend to file and any proposed changes to the trial schedule which has been synchronized across all six *inter partes* reviews.

During the conference call, EMC indicated that it will seek authorization to file a motion to submit supplemental information under 37 C.F.R. § 42.123. To be better informed, the Board requested EMC to identify the supplemental information that it wishes to submit by sending a list of the supplemental information to the following electronic-mail address: Trials@uspto.gov.

Each party further indicated that it may file a motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c). The Board authorized the filing of the motions, and noted that any motion for *pro hac vice* admission filed by the parties shall also indicate that the person sought to be admitted will be subject to the USPTO Rules of Professional Conduct.

PersonalWeb requested a modification of the due date for filing a patent owner response and a coordination of discovery between the six trials because it was concerned with the availability of EMC's declarant. Upon inquiry, EMC expressed that it will work with PersonalWeb to provide availability dates of their declarant so that the trial schedule would not be impacted. In addition, to increase efficiency, the parties stipulated to a single deposition useable in all six trials for EMC's declarant. The Board suggested that the parties work together to stipulate the time limits for taking testimony and any changes to DUE DATES 1 through 3.

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PersonalWeb indicated that it may file a motion to seal regarding confidential information. The Board noted that the Decision on Motion to Seal entered in IPR2012-00001, Paper 36, contains a helpful guidance on filing a motion to seal. The Board also explained that, prior to filing such a motion, PersonalWeb should confer with EMC regarding having a protective order put in place to cover disclosure of confidential information. The parties should contact the Board if they intend to deviate from the default protective order in Appendix B to the Board's Trial Practice Guide. *See Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48769 (Aug. 14, 2012).*

PersonalWeb also requested authorization to file an opposition to the motion for joinder of IPR2013-00319 with IPR2013-00082. The Board authorized the filing of such an opposition. *See Order entered in IPR2013-00319, Paper 8.*

Upon inquiry by the Board, PersonalWeb indicated that it is still considering filing a motion to amend claims. The Board noted that if PersonalWeb wishes to file a motion to amend claims, PersonalWeb should confer with the Board prior to the filing of such a motion as required by 37 C.F.R. § 42.121(a).

It is

ORDERED that the parties' stipulation for taking a single deposition useable in all six trials for EMC's declarant is authorized; the parties are authorized to stipulate to different time limits for taking testimony for a resulting single deposition; and the parties are authorized to file a resulting single deposition useable in all six trials;

FURTHER ORDERED that the parties are authorized to file a notice of stipulation of any changes to DUE DATES 1 through 3;

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FURTHER ORDERED that if the parties need authorization to deviate from the default protective order, the parties may initiate a joint conference call; and

FURTHER 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* Admission” in Case IPR2013-00010 (MPT), a copy of which is available on the Board Web site under “Representative Orders, Decisions, and Notices.” Any motion for *pro hac vice* admission filed by the parties shall also indicate that the person sought to be admitted will be subject to the USPTO 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) (effective May 3, 2013).*

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PETITIONER:

Peter M. Dichiara, Esq.

David L. Cavanaugh, Esq.

WILMER CUTLER PICKERING HALE & DORR LLP

peter.dichiara@wilmerhale.com

david.cavanaugh@wilmerhale.com

PATENT OWNER:

Joseph A. Rhoa, Esq.

Updeep. S. Gill, Esq.

NIXON & VANDERHUYE P.C.

jar@nixonvan.com

usg@nixonvan.com