

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZYNGA INC.
Petitioners,

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC
Patent Owner.

Cases IPR2013-00156 (Patent 7,860,131)
IPR2013-00162 (Patent 7,908,638)
IPR2013-00164 (Patent 7,797,717)
IPR2013-00171 (Patent 7,734,251)¹

Before SALLY C. MEDLEY, KARL D. EASTHOM, and JONI Y. CHANG,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

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

¹ This order addresses a similar issue in the four cases. Therefore, we exercise discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style of heading in subsequent papers.

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On August 27, 2013, the following individuals participated in a conference call:

(1) Mr. David Cochran, Mr. Joseph Sauer, and Mr. Louis Touton, counsel for Zynga, Inc. (“Zynga”);

(2) Mr. Thomas Scott, Jr. and Mr. Stephen Schreiner, counsel for Personalized Media Communications (“PMC”); and

(3) Sally Medley, Karl Easthom, and Joni Chang, Administrative Patent Judges.

Motions List

In preparation for the initial call, PMC filed a motions list. Paper 13.² However, Zynga did not. Counsel for Zynga confirmed that Zynga does not seek authorization to file any motions.

Motion to Amend

During the call, counsel for PMC represented that at this time, PMC does not intend to file a motion to amend. As discussed, if PMC determines that it will file a motion to amend, PMC must arrange a conference call soon thereafter with the Board and opposing counsel to discuss the proposed motion to amend.

Motion for Additional Discovery

On its list, PMC indicates that it may seek authorization to file a motion for additional discovery. Paper 13 at 2. However, at this time, PMC does not seek authorization to file a motion for additional discovery. The parties may agree to

² The motions list is identical for each of the four cases. For purposes of this order, we reference the paper filed in IPR2013-00156.

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additional discovery between themselves and only if they disagree is it necessary to seek Board authorization to file a motion for additional discovery. 37 C.F.R. § 42.51(b)(2). If PMC seeks authorization to file a motion for additional discovery, PMC must arrange a conference call with opposing counsel and the Board.

Motion to Exclude

On its list, PMC indicates that it may file a motion to exclude. Paper 13 at 2. However, at this time, counsel for PMC did not indicate that PMC intends to file a motion to exclude.

The parties were reminded that a motion to exclude is available to a party wishing to challenge the admissibility of evidence and to preserve an objection made previously. *See Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48767 (Aug. 14, 2012). A party following these guidelines may file a motion to exclude without prior authorization from the Board. The rule specifies as much and explains that a motion to exclude must identify the objections in the record and must explain the objections. 37 C.F.R. § 42.64(c). The parties were reminded that a motion to exclude is not, for example, an opportunity for a party to request the Board to not consider, or to strike, portions of an opponent's brief because the portions allegedly raise new issues in violation of 37 C.F.R. § 42.23(b).³

Schedule

³ The rule explains that all arguments for the relief requested in a motion must be made in the motion and that a reply may only respond to arguments raised in a corresponding opposition or patent owner response. 37 C.F.R. § 42.23(b).

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Counsel for the respective parties indicated that they have no issues with the Scheduling Order entered July 25, 2013.

Settlement

There was no report of settlement.

Order

It is

ORDERED that no motions are authorized at this time.

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