

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, INC.
SAP AMERICA INC.
Petitioners

v.

CLOUDING IP, LLC
Patent Owner

Case IPR2013-00586
Case IPR2014-00306
Patent 6,738,799

Before JAMESON LEE, JUSTIN BUSCH, and
RAMA G. ELLURU, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

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

IPR2013-00586
IPR2014-00306
Patent 6,738,799

SAP America Inc. (“SAP”) filed a petition for an *inter partes* review of U.S. Patent No. 6,738,799 (Ex. 1001, “the ’799 Patent”) on December 27, 2013 (the “SAP IPR Petition”) in *SAP America Inc. v. Clouding IP, LLP*, Case IPR2014-00306. IPR2014-00306, Paper 1. On April 21, 2014, SAP filed a Motion for Joinder to join that proceeding with this proceeding, *Unified Patents, Inc. v. Clouding IP, LLC*, Case IPR2013-00586. IPR2014-00306, Paper 8. We instituted trial based on the SAP IPR Petition and further granted SAP’s Motion for Joinder. IPR2014-00306, Papers 12, 13.

Accordingly, IPR2014-00306 is now joined with the instant proceeding. Due to the fact that there are no new challenged grounds and the fact that SAP has agreed to rely upon the testimony of Dr. Hutchinson (submitted by Unified), whose declaration is of record in the instant proceeding, no change to the Scheduling Order, entered on March 21, 2014 appears to be necessary. If any party believes it is necessary to modify the schedule on the basis of the joinder, the parties shall confer. If the parties are able to reach an agreement regarding modifying Due Dates 1-3 (with modified Due Dates 1-3 falling no later than Due Date 4), the parties are authorized to file a joint stipulation to a proposed revised schedule. The parties may not stipulate to a modification to Due Dates 4-7. However, if any party would like to request a change to any of Due Dates 4-7, or if any party would like to change Due Dates 1-3 and the parties cannot agree on a proposed revised schedule, that party may initiate a conference call.

IPR2013-00586
IPR2014-00306
Patent 6,738,799

ORDER

For the reasons given, it is

ORDERED that IPR2014-00306 is joined with IPR2013-00586;

FURTHER ORDERED that the Scheduling Order in place in IPR2013-00586 is unchanged;

FURTHER ORDERED that, subsequent to joinder, the grounds for trial in the joined proceedings are the same as those for which trial was instituted in IPR2013-00586;

FURTHER ORDERED that, in the joined proceeding, Unified and SAP will file papers, except for motions which do not involve the other party, as consolidated filings; Unified will identify each such filing as a Consolidated Filing and will be responsible for completing all consolidated filings. SAP may file an additional paper, concurrent with each consolidated filing, not to exceed seven pages, which may address only points of disagreement with positions asserted in the consolidated filing. Any such filing by SAP must specifically identify and explain each point of disagreement. SAP may not file separate arguments in support of points made in Unified's consolidated filing;

FURTHER ORDERED that, in addition to responding to any consolidated filing, Clouding may respond separately, but concurrently, to any separate SAP filing. Any such response by Clouding to an SAP filing may not exceed the number of pages in the SAP filing and is limited to issues raised in the SAP filing;

FURTHER ORDERED that SAP and Unified will designate attorneys to conduct the cross-examination of any witnesses produced by Clouding

IPR2013-00586
IPR2014-00306
Patent 6,738,799

and the redirect of any witnesses produced by Unified or SAP within the time frame normally allotted by the rules for one party. SAP and Unified will not receive any separate cross-examination or redirect time;

FURTHER ORDERED that any requests by any party for additional deposition time must be brought before the Board; and

FURTHER ORDERED that the case caption in IPR2013-00586 shall be changed to reflect joinder with this proceeding in accordance with the caption in this Order.

IPR2013-00586
IPR2014-00306
Patent 6,738,799

PETITIONER:

Frank C. Cimino, Jr.
Megan S. Woodworth
S. Gregory Herrman
DICKSTEIN SHAPIRO LLP
CiminoF@dicksteinshapiro.com
WoodworthM@dicksteinshapiro.com
HerrmanG@dicksteinshapiro.com

Michael L. Kiklis
Scott A. McKeown
OBLON SPIVAK
cpdocketkiklis@oblon.com
cpdocketmckeown@oblon.com

PATENT OWNER:

Tarek N. Fahmi
Amy J. Embert
FAHMI, SELLERS & EMBERT
tarek.fahmi@fseip.com
amy.embert@fseip.com