

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRO MOTION, INC.,
Petitioner,

v.

INVENSYS SYSTEMS, INC.,
Patent Owner.

IPR2014-00390 (Patent 6,754,594 B2)
IPR2014-00392 (Patent 8,000,906 B2)
IPR2014-00393 (Patent 7,571,062 B2)¹

Before WILLIAM V. SAINDON, MICHAEL R. ZECHER,
and JENNIFER M. MEYER, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

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

¹ This Order addresses issues that are identical in all three cases. We exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

IPR2014-00390 (Patent 6,754,594 B2)

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An initial conference call for the above-identified proceedings was held on August 26, 2014, between respective counsel for Petitioner and Patent Owner, and Judges Saindon, Zecher, and Meyer. The purpose of the call was to discuss any proposed changes to the Scheduling Order (Paper 17),² as well as any motions that the parties intend to file. Patent Owner (Paper 18) and Petitioner (Paper 19) each filed a list of proposed motions. The following issues were discussed.

1. Scheduling Order

Petitioner noted in its list of proposed motions that the parties may stipulate to changes to Due Dates 1–5. Paper 19, 1. Petitioner suggested that the parties may request adjustment to Due Date 6 as well. *Id.* During the call, we indicated that the parties could stipulate changes to Due Dates 1–5, but that we were not inclined to move Due Date 6, unless there was a compelling circumstance.

Petitioner asked for clarification as to whether Due Date 4 of the Scheduling Order authorizes Petitioner, as well as Patent Owner, to file a motion for observation on cross-examination and a motion to exclude evidence (Due Date 4). We confirmed that the Scheduling Order does provide prior authorization for both parties to file these motions, and their associated oppositions (Due Date 5) and replies (Due Date 6).

The parties did not indicate any issue with Due Date 7 (oral hearing).

² Citations in this paper are to IPR2014-00390. The other proceedings will have analogous papers.

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2. Proposed Motions

Petitioner did not propose any motions. Paper 19, 2.

Patent Owner listed several motions in its list of proposed motions, but indicated during the call that, although it is considering a Motion to Amend, the remainder of the list is merely a placeholder for motions it may seek authorization to file at a later stage. *See* Paper 18, 1. We did not discuss further these placeholders during the call.

Regarding the Motion to Amend, Patent Owner recognized its requirement to confer with us prior to filing the motion. Patent Owner noted, however, that the parties and this panel recently conferred (August 8, 2014) to discuss this very topic in related cases IPR2014-00167, 170, 178, and 179. *See, e.g., Micro Motion, Inc., v. Invensys Systems, Inc.*, Case IPR2014-00167 (PTAB Aug. 11, 2014), Paper 24. Patent Owner asked if the guidance it received at that time could be considered sufficient to satisfy its requirement to confer with us prior to filing a Motion to Amend in these cases. We agreed to consider the requirement to confer in these cases to be satisfied, under these particular circumstances. A repeat of our prior conversation would be unnecessary and would not promote efficiency and economy in these proceedings. *See* 37 C.F.R. § 42.1(b) (“[Trial practice and procedure] shall be construed to secure the just, speedy, and inexpensive resolution of every proceeding.”). Patent Owner may request a conference call to discuss the Motion to Amend should the circumstances change.

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ORDER

It is hereby ORDERED that Patent Owner's requirement to confer with us prior to filing a Motion to Amend has been satisfied in these three proceedings.

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