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IPR2014-00648; Paper 19,
IPR2014-00649; Paper 16,
IPR2014-00650; Paper 19,

Entered: November 21, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WEBASTO ROOF SYSTEMS, INC.,
Petitioner,

v.

UUSI, LLC,
Patent Owner.

Case IPR2014-00648 (Patent 8,217,612 B2)
Case IPR2014-00649 (Patent 7,548,037 B2)
Case IPR2014-00650 (Patent 7,579,802 B2)¹

Before GLENN J. PERRY, HYUN J. JUNG, and GEORGE R. HOSKINS,
Administrative Patent Judges.

PERRY, *Administrative Patent Judge.*

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

¹ This order addresses issues that are identical in the three cases. The parties are not authorized to use this heading style in their papers.

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A combined initial conference call was held on November 20, 2014 and attended by the above-identified panel members and respective counsel for the parties. We received from Petitioner a list of proposed motions² in each of the cases. The following matters were discussed.

Scheduling Order

Petitioner and Patent Owner indicated they are generally comfortable with the dates set forth in the Scheduling Orders³ (identical for the three captioned proceedings). We are advised that one of Petitioner's expert declarants sustained an injury and may require a hospitalization that might necessitate a schedule change. Patent Owner is concerned that a schedule slip in one case may provide an opportunity for Petitioner's expert to see a Patent Owner response in another of the proceedings prior to cross-examination of the expert by Patent Owner. This could be prejudicial to Patent Owner.

We plan to keep these three proceedings synchronized. Thus, if any of the three proceedings causes a change to the schedule, the change will be effective as to all three.

Counsel may agree, without consulting the Board, to alter any of Due Dates 1-5 of the Scheduling Order so long as they do not intrude on Due Dates 6 and 7. The parties were urged to work out an accommodating

² IPR2014-00648 Paper 17; IPR2014-00649 Paper 15; and IPR2014-00650 Paper 17.

³ IPR2014-00648 Paper 15; IPR2014-00649 Paper 14; and IPR2014-00650 Paper 15.

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schedule. Counsel should request a conference with the Board if they are ever unable to reach an agreement.

Protective Order (Rule 42.54)

Neither party has indicated a present need for a protective order. If one is needed as these cases proceed, an appropriate motion can be filed. A protective order is not automatically in place in AIA proceedings. The parties are advised that in the event a protective order is needed, they should first attempt to agree on the language of a protective order. There is a default protective order set forth in an appendix to our Trial Practice Guide. It is intended as a model which can be adopted as is, or altered as appropriate to the circumstances. After working out language for the protective order, counsel should initiate a conference call with the panel in order to obtain authorization for filing a motion to have the agreed-upon protective order made effective.

Copending Litigation

The parties confirmed that the copending litigation between the parties, *UUSI, LLC v. Webasto Roof Systems, Inc.*, Civil Action No. 2:13-cv-11704 (E.D. Mich.), has been stayed pending our decision in these *inter partes* reviews.

Motion to Exclude

Petitioner indicates that it may wish to file one or more motions to exclude evidence. The parties were advised as to the process described by 37 C.F.R. § 42.64 including the serving of an objection to evidence and supplemental evidence and the subsequent filing of a motion to exclude should the objection not be cured.

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Motion for Observations

Petitioner also indicates that it may wish to file a motion for observations. In the event that cross-examination occurs after a party has filed its last substantive paper on an issue, such cross-examination may result in testimony that should be called to the Board's attention, but the party does not believe a motion to exclude the testimony is warranted. The Board may authorize the filing of observations to identify such testimony and responses to observations. Please refer to the guidance set forth in the Patent Trial Practice Guide. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,755, 48,768 (Aug. 14, 2012). Observations on cross-examination provide a mechanism to draw the Board's attention to relevant cross-examination testimony of a witness. Each observation must be a concise statement of the relevance of precisely identified testimony to a precisely identified argument or portion of an exhibit. An observation, however, is not an opportunity to raise new issues, to re-argue issues, or to pursue objections.

Settlement

The parties indicate nothing further to report regarding settlement.

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ORDER

Accordingly, it is hereby
ORDERED that the trial schedule remains as set in the Scheduling
Orders.

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