

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD,
SAMSUNG ELECTRONICS AMERICA, INC.¹
Petitioner,

v.

AFFINITY LABS OF TEXAS, LLC,
Patent Owner.

Cases IPR2014-01181, -01182, -01184²
Patent 8,532,641 B2

Before KEVIN F. TURNER, LYNNE E. PETTIGREW, and
JON B. TORNQUIST, *Administrative Patent Judges*.

TORNQUIST, *Administrative Patent Judge*.

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

¹ Petitioner represents that Samsung Telecommunications America, LLC, an originally-named Petitioner in this case, was merged into Samsung Electronics America, Inc. on January 1, 2015. *See* IPR2014-01181, Paper 9.

² This order summarizes a consolidated conference call pertaining to three related cases. We exercise our discretion to issue one decision to be entered in each case. The parties are not authorized to use this style heading in their papers.

A consolidated initial conference call was held on March 5, 2015, between counsel for Patent Owner and Petitioners, and Judges Turner, Pettigrew, and Tornquist. The purpose of the call was to discuss any proposed changes to the Scheduling Order and any motions the parties intend to file. The following issues were discussed.

Scheduling Order/Joinder

During the call, neither party requested a modification to the dates set forth in the Scheduling Order. Petitioner did note, however, that two new cases, IPR2015-00820 and IPR2015-00821, were recently filed relating to U.S. Patent No. 8,532,641, and that it was seeking to join the new cases with IPR2014-01181 and IPR2014-01184, respectively. Petitioner asserted that such a joinder, if granted, would require a modification to the schedule for the three present IPR proceedings.

During the call, Petitioner confirmed that the two new petitions have yet to receive a filing date and that Patent Owner has not yet filed an appearance in the new proceedings. The Board noted that, under these circumstances, it is premature to discuss joinder of the new cases or modifying the schedule for IPR2014-01181, -01182, and -01184.

Protective Order

No protective order has been entered in this proceeding.

Motions to Exclude

Both parties indicated that they make seek to file a motion to exclude evidence. The parties are directed to the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,767 (Aug. 14, 2012) (Section K), 37 C.F.R. § 42.64(c), and the Scheduling Order for guidance on the form, content, and timing of motions to exclude.

Motion to Amend

Patent Owner advised that it may file a motion to amend. If Patent Owner decides to file a motion to amend, Patent Owner shall arrange a conference call no later than one week before the filing deadline to discuss the proposed motion. *See* 37 C.F.R. § 41.121(a). Before preparing any motion, the Board advised Patent Owner to review the body of cases that have been issued previously by the Board related to motions to amend. The parties are further directed to *Nichia Corp. v. Emcore Corp.*, IPR2012-00005, Paper Nos. 27 and 68; *Idle Free Sys., Inc. v. Bergstrom, Inc.*, IPR2012-00027, Paper Nos. 26 and 66; and *ZTE Corp. v. Contentguard Holdings Inc.*, IPR2013-00136, Paper No. 33, which discuss the requirements of a motion to amend claims.

Pro Hac Vice Admission

Counsel for Petitioner indicated that they may seek *Pro Hac Vice* admission of additional counsel, which was previously authorized in the notice of filing date accorded. *See, e.g.*, IPR2014-01181, Paper 3, 3 (authorizing a motion for *Pro Hac Vice* admission).

Consolidation

During the call, Petitioner requested that the Board confirm that it will issue its final decisions in each of the three cases on the same day. The Board noted that it could not guarantee the issuance of judgments on the same day, but would be amenable to consolidating the three cases. Petitioner and Patent Owner did not object to consolidation, but noted that, due to the complexity of the issues presented in the three cases, additional pages for briefing may be required. The Board noted that it would consider authorizing a reasonable number of additional pages for briefing the

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consolidated case, and that the parties should confer as to the number of additional pages that would reasonably be required. After conferring on the matter, the parties shall provide a joint proposal to the Board by March 20, 2015, setting forth the number of additional pages requested.

It is, therefore,

ORDERED that the parties shall submit on or before March 20, 2015, a joint proposal setting forth the number of additional pages requested for a consolidated proceeding involving IPR2014-01181, -01182, and -01184; and

FURTHER ORDERED that no other motions, besides those discussed above or authorized by rule, are authorized at this time.

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