

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner

v.

DRAGON INTELLECTUAL PROPERTY, LLC.,
Patent Owner.

Case IPR2014-01252
Patent 5,930,444

Before NEIL T. POWELL, GREGG I. ANDERSON, and
J. JOHN LEE, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

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

Introduction

A conference call was held on November 26, 2014. The participants were Michael Kiklis on behalf of Unified Patents Inc. (“Petitioner”), Jason Angell on behalf of Dragon Intellectual Property, LLC (“Patent Owner”), and Judges Powell, Anderson, and Lee. The purpose of the call was to discuss (1) a request by Petitioner for leave to file a reply to Patent Owner’s Preliminary Response (Paper 14), and (2) a request by Patent Owner for leave to file an opposition to Petitioner’s Motion to Seal (Paper 12).

1. Petitioner’s Requested Reply on Real-Party-In-Interest

Petitioner requested leave to file a reply to Patent Owner’s Preliminary Response in order to respond to the arguments Patent Owner advanced regarding real party-in-interest issues. Petitioner proposed that we set a due date of December 5, 2014, for filing the reply. Petitioner confirmed its intended reply would include only exhibits containing information exchanged by the parties during discovery that occurred prior to Patent Owner filing its Preliminary Response. Patent Owner opposed Petitioner’s request for a reply, arguing that Petitioner had an opportunity to address the real party-in-interest in its Petition. Petitioner responded that it believes its request is warranted because of the importance of the issue.

We authorized Petitioner to file a reply to Patent Owner’s Preliminary Response by December 5, 2014. We instructed Petitioner that the reply may only address the issue of real party-in-interest and that the reply is limited to 10 pages in length. We further instructed Petitioner that it may only file exhibits with its reply that contain information Patent Owner had possession of before it filed its Preliminary Response.

Patent Owner inquired whether it may file a surreply following Petitioner filing its reply. At this time, we do not authorize Patent Owner to file a surreply.

2. Patent Owner's Requested Opposition to Motion to Seal

Patent Owner requested leave to file an opposition to Petitioner's Motion to Seal because Patent Owner believes the Motion to Seal requests to seal exhibits that should not be sealed. The parties indicated during the call that they have not discussed specifics of Patent Owner's concerns regarding the exhibits that Petitioner's Motion to Seal requests to be sealed. We instructed the parties to confer on this matter and strive to agree regarding which, if any, of the exhibits in question (or portions thereof) should be sealed. It is the intent of the Board that the parties work together, on this and other issues, to reduce the number of issues brought to us.

We also instructed the parties that, in the event they cannot agree regarding which of the exhibits should be sealed, Patent Owner is authorized to file an opposition to Petitioner's Motion to Seal. An opposition to a motion is due one month from the date the motion was served. 37 C.F.R. § 42.25(a)(1). During the call, the parties confirmed that Petitioner's Motion to Seal was served on Patent Owner on November 15, as indicated in the Motion. *See* Mot. 7. Accordingly, in the event it becomes necessary for Patent Owner to file an opposition, it is due by December 15, 2014. Additionally, if filed, the opposition is limited to 15 pages in length. 37 C.F.R. § 42.24(b)(3). The parties also raised the issue of the proposed Protective Order submitted with the Motion to Seal. We will consider the proposed Protective Order when we consider the Motion.

ORDER

Accordingly, it is

ORDERED that Petitioner is authorized to file by December 5, 2014, a reply to Patent Owner's Preliminary Response, the reply being limited to 10 pages and addressing only the issue of real party-in-interest;

FURTHER ORDERED that, with the foregoing reply, Petitioner may file only exhibits containing information that Patent Owner had possession of before Patent Owner's Preliminary Response was filed;

FURTHER ORDERED that the parties are to confer and attempt to agree regarding which, if any, of the exhibits (or portions thereof) identified in Petitioner's Motion to Seal should be sealed;

FURTHER ORDERED that, in the event the parties cannot agree regarding which of the exhibits (or portions thereof) identified in the Motion to Seal should be sealed, Patent Owner is authorized to file by December 15, 2014, an opposition to the Motion to Seal, the opposition being limited to 15 pages.

IPR2014-01252
Patent 5,930,444

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