

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)
IPR2014-01409 (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 affect each of these cases.

IPR2014-00390 (Patent 6,754,594 B2)
IPR2014-00392 (Patent 8,000,906 B2)
IPR2014-00393 (Patent 7,571,062 B2)
IPR2014-01409 (Patent 7,571,062 B2)

A conference call for the above-identified proceedings was held on September 26, 2014, between respective counsel for Petitioner and Patent Owner, and Judges Saindon, Zecher, and Meyer. Petitioner requested the call to address issues regarding the outstanding Motion for Joinder in IPR2014-01409 and the upcoming deposition of Petitioner's expert in IPR2013-00390, IPR2014-00392, and IPR2013-00393.

We instituted *inter partes* review in IPR2014-00393 on August 4, 2014. One month later, Petitioner filed a Petition in IPR2014-01409 with a Motion for Joinder, to join it to IPR2014-00393. Both of these proceedings involve the same patent. We have not ruled yet on that Motion.

The following issues were discussed.

Petitioner first requested to file a joint proposed schedule should the two proceedings be joined, citing to the procedure followed in *Ariosa v. Isis*, Case IPR2012-00022 (PTAB May 1, 2013) (Paper 35). Effectively, Petitioner requests that the existing schedule in IPR2014-00393 be pushed back to accommodate IPR2014-01409. Petitioner also requested, to accommodate that schedule, that Patent Owner's Opposition to Petitioner's Motion for Joinder, if any, be made in Patent Owner's Preliminary Response.

The panel heard from both sides. We authorized Patent Owner's request to file an Opposition to the Motion for Joinder and we set a due date of October 6, 2014. After Patent Owner files its Opposition, Petitioner may request authorization to file a Reply by contacting the Board. Upon receipt of the Opposition and the Reply, if any, we will rule on the Motion for Joinder, in due course.

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Petitioner lastly notified the panel that the parties had not yet reached agreement regarding the length of the deposition of Petitioner's expert, Dr. Sidman, which is set to begin next week on Tuesday, September 30, 2014. In addition to IPR2014-00393, the deposition will involve IPR2014-00390 and IPR2014-00392, which were instituted on the same day as the '393 IPR and include overlapping issues. We encouraged the parties to come to agreement regarding the length of depositions and reminded the parties of the default times, in the absence of agreement, set forth in 37 C.F.R. § 42.53.

In addition, last month Patent Owner deposed Dr. Sidman in IPR2014-00167, IPR2014-00170, IPR2014-00178, and IPR2014-00179, which have overlapping issues with IPR2014-00390, IPR2014-00392, and IPR2014-00393. To help potentially mitigate the deposition length dispute, the parties indicated, during the call, their agreement to allow Dr. Sidman's prior testimony in the related cases to be relied upon in IPR2014-00390, IPR2014-00392, and IPR2014-00393, subject to our approval. We approved this agreement because it promotes the speedy and inexpensive resolution of these proceedings. *See* 37 C.F.R. § 42.1(b).

ORDER

It is hereby:

ORDERED that Patent Owner may file an Opposition to Petitioner's Motion for Joinder in IPR2014-01409, and that Opposition is to be no more than 15 pages and is due October 6, 2014;

FURTHER ORDERED the parties are permitted to file one or more of Exhibit 2025 from IPR2014-00167, Exhibits 2014 and 2015 from IPR2014-00170, Exhibit 2026 from IPR2014-00178, and Exhibit 2015 from IPR2014-

IPR2014-00390 (Patent 6,754,594 B2)
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00179, as an exhibit in IPR2014-00390, IPR2014-00392, and/or IPR2014-00393, and may rely upon the testimony in those exhibits as if it had been taken previously in IPR2014-00390, IPR2014-00392, and/or IPR2014-00393.

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