

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHARP CORPORATION, SHARP ELECTRONICS CORPORATION, and
SHARP ELECTRONICS MANUFACTURING
COMPANY OF AMERICA,
Petitioner,

v.

SURPASS TECH INNOVATION LLC,
Patent Owner.

Case IPR2015-00021
Patent 7,202,843 B2

Before SALLY C. MEDLEY, BRYAN F. MOORE, and
BETH Z. SHAW, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

On April 7, 2015, the initial conference call was held between counsel for the respective parties and Judges Medley, Moore, and Shaw.¹

Schedule

Petitioner requested that we reset the date for hearing to December 8, 2015. We explained that the Board did not have resources to accommodate a hearing that day, but offered to hold a telephonic hearing, which Petitioner declined. Accordingly, no change to the hearing date will be made. We further explained that we would modify the Scheduling Order to be consistent with United States Patent & Trademark Office Director Michelle K. Lee's March 27, 2015 blog² regarding changes to AIA proceedings effective immediately. The attached Scheduling Order reflects those changes and replaces the March 18, 2015 Scheduling Order.

To the extent issues arise with DATES 1-5 identified in the attached Scheduling Order, the parties are reminded that, without obtaining prior authorization from the Board, they may stipulate to different dates for DATES 1-5, as provided in the Scheduling Order, by filing an appropriate notice with the Board. The parties may not stipulate to any other changes to the Scheduling Order.

Motions

Neither party seeks authorization to file a motion at this time. As explained, if Patent Owner determines that it will file a motion to amend, Patent Owner must

¹ A court reporter also was present.

² http://www.uspto.gov/blog/director/entry/ptab_s_quick_fixes_for

IPR2015-00021
Patent 7,202,843 B2

arrange a conference call no later than two weeks prior to DUE DATE 1 with the Board and opposing counsel to discuss the proposed motion to amend. *See* 37 C.F.R. § 42.121(a).

The parties were reminded that if they seek authorization to file a motion not contemplated per the Scheduling Order, the party requesting such authorization must arrange a conference call with opposing counsel and the Board.

Rehearing Request

Petitioner filed a motion requesting rehearing of the Decision to Institute *inter partes* review. Paper 12. During the call, Patent Owner requested authorization to file an opposition to the motion. As explained, Patent Owner is not authorized to file an opposition at this time. We also reminded the parties that a rehearing request does not toll times for taking action. 37 C.F.R. § 42.71(d).

Settlement

The parties have nothing to report with respect to settlement.

Order

It is

ORDERED that no motions are authorized at this time;

FURTHER ORDERED that Patent Owner's request to file an opposition to Petitioner's motion requesting rehearing is *denied*; and

FURTHER ORDERED that the attached Scheduling Order replaces the March 15, 2015 Scheduling Order.

IPR2015-00021
Patent 7,202,843 B2

For Petitioner:

Anthony F. Lo Cicero
Brian A. Comack
AMSTER ROTHSTEIN & EBENSTEIN LLP
alocicero@arelaw.com
Sharp-843IPR@arelaw.com

For Patent Owner:

Wayne M. Helge
Donald L. Jackson
Michael R. Casey
DAVIDSON BERQUIST JACKSON & GOWDY LLP
whelge@dbjg.com
djackson@dbjg.com
mcasey@dbjg.com

SCHEDULING ORDER

A. DUE DATES

This order sets due dates for the parties to take action after institution of the proceeding. The parties may stipulate to different dates for DUE DATES 1 through 5 (earlier or later, but no later than DUE DATE 6). A notice of the stipulation, specifically identifying the changed due dates, must be promptly filed. The parties may not stipulate to an extension of DUE DATES 6 and 7.

In stipulating to different times, the parties should consider the effect of the stipulation on times to object to evidence (37 C.F.R. § 42.64(b)(1)), to supplement evidence (37 C.F.R. § 42.64(b)(2)), to conduct cross-examination (37 C.F.R. § 42.53(d)(2)), and to draft papers depending on the evidence and cross-examination testimony (*see* section B, below).

The parties are reminded that the Testimony Guidelines appended to the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,772 (Aug. 14, 2012) (Appendix D), apply to this proceeding. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorneys' fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.