

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ASKELADDEN LLC,  
Petitioner,

v.

SEAN I. MCGHIE and BRIAN BUCHHEIT,  
Patent Owner.

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Cases IPR2015-00122 (Patent 8,523,063)  
IPR2015-00123 (Patent 8,523,063)  
IPR2015-00124 (Patent 8,540,152)  
IPR2015-00125 (Patent 8,540,152)<sup>1</sup>

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Before SALLY C. MEDLEY, JONI Y. CHANG, and  
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

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

On January 23, 2015, Patent Owner filed a preliminary response in

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<sup>1</sup> This order addresses issues that are the same in the identified cases. We exercise our discretion to issue one order to be filed in each case. The parties are not authorized to use this style heading.

each of the four proceedings. Each preliminary response exceeded the authorized 60 page limit for a preliminary response per 37 C.F.R. § 42.24(b)(1). Accordingly, the preliminary responses were expunged from the record and Patent Owner was authorized to file a corrected preliminary response in each of the proceedings by February 6, 2015. *See, e.g.*, IPR2015-00122, Paper 11 (“Order”). No corrected responses were filed by February 6, 2015.

On February 11, 2015, a conference call was held including counsel<sup>2</sup> for the respective parties and Judges Medley, Chang, and Braden. The purpose of the call was to verify that Patent Owner did not intend to file a corrected preliminary response in any of the four proceedings.<sup>3</sup>

Patent Owner explained that the Order went to his junk email folder, and that he only became aware of the Order after the February 6, 2015 deadline. Patent Owner requested an extension of time to file corrected preliminary responses in the four proceedings. Petitioner opposed.

Based on the facts and arguments presented during the conference call, Patent Owner has shown good cause to extend the filing date for the corrected preliminary responses. *See* 37 C.F.R. § 42.5(c)(2).

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<sup>2</sup> Patent Owner is represented by Mr. Brian Buchheit, one of the named inventors of the involved patents, who is registered to practice before the Office.

<sup>3</sup> Another purpose of the conference call was to discuss the real party-in-interest issue raised by Patent Owner in its preliminary response filed in related IPR2015-00133 and IPR2015-00137. An order addressing that issue will be made in due course.

*Order*

It is

ORDERED that Patent Owner's request for an extension of time to file corrected preliminary responses is *granted*; and

FURTHER ORDERED that Patent Owner is authorized to file a corrected preliminary response in each proceeding no later than February 13, 2015.

PETITIONER:

Robert H. Fischer  
Frank A. DeLucia  
Stephen Yam  
Justin Oliver  
Fitzpatrick, Cella, Harper & Scinto  
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