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IPR2015-00887 Paper 13;
IPR2015-00863 Paper 16
Entered: October 2, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG DISPLAY CO., LTD
Petitioner,

v.

SURPASS TECH INNOVATION LLC,
Patent Owner.

Cases IPR2015-00887 (Patent 7,420,550 B2)
IPR2015-00863 (Patent 7,202,843 B2)¹

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

SHAW, *Administrative Patent Judge*.

¹ This Order addresses the same issues in the above-identified *inter partes* reviews. Therefore, we issue one Order to be filed in the identified cases. The parties, however, are not authorized to use this style of filing in subsequent papers.

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

This matter is before the Board on a request by Petitioner for clarification to Patent Owner's Objections to Petitioner's Evidence Pursuant to 37 C.F.R. § 42.64(b)(1) ("Patent Owner's Objection") filed on September 22, 2015. Paper 14.² Petitioner's responses to Patent Owner's Objections are due within ten business days of service of Patent Owner's Objections. *See* 37 C.F.R. § 42.64(b)(2).

During a conference call held on September 29, 2015 between counsel for the parties³ and Judges Medley, Moore, and Shaw, Petitioner explained that it had requested clarification of certain objections made by Patent Owner (Paper 14), but Patent Owner did not provide further clarification. Petitioner provided examples of objections for which it requested clarification, and Patent Owner did not provide clarification during the call.

A party objecting to evidence must identify the grounds for the objection *with sufficient particularity to allow correction* in the form of supplemental evidence. 37 C.F.R. § 42.64(b)(1). A party relying on evidence to which an objection is timely filed may respond to the objection by serving supplemental evidence within ten business days of service of the objection. 37 C.F.R. § 42.64(b)(2). A motion to exclude evidence must be

² All citations are to IPR2014-00863, as representative, unless otherwise noted.

³ A court reporter was transcribing the call.

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filed to preserve any objection, and is due towards the end of Trial (DUE DATE 4). A motion to exclude is typically decided after a hearing has been held.

As explained during the conference call, to the extent a party does not identify the grounds for an objection with sufficient particularity to allow correction, then that party may not supplant and further provide the sufficient particularity in a motion to exclude. If they do so, the moving party runs the risk of having the motion to exclude dismissed or denied.

Upon consideration of the positions of the parties, and based on the assumption that the Patent Owner will provide no further information to Petitioner, Petitioner should proceed how it will with the information Petitioner has. At this juncture of the Trial, we decline to rule on any objections made by the Patent Owner, because doing so would be premature.

It is

ORDERED that the parties will file a copy of the transcript of the September 29, 2015 phone call in due course.

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