

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION,
Petitioner,

v.

APPLICATIONS IN INTERNET TIME, LLC,
Patent Owner.

Case IPR2015-01750
Patent 8,484,111 B2

Case IPR2015-01751
Case IPR2015-01752
Patent 7,356,482 B2¹

Before LYNNE E. PETTIGREW, MITCHELL G. WEATHERLY, and
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

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

¹ This order addresses issues common to all cases; therefore, we issue a single order to be entered in each case.

IPR2015-01750 (Patent 8,484,111 B2)
IPR2015-01751, IPR2015-01752 (Patent 7,356,482 B2)

The captioned proceedings have been remanded to the Board by the Federal Circuit. *See Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336 (Fed. Cir. 2018) (“RPX”). As discussed in our Order of November 20, 2018 (Paper 84²), the inquiry on remand relates to whether Salesforce.com, Inc. must be identified as a real party-in-interest or privy. Pursuant to that Order, the parties have now jointly submitted by e-mail their proposals regarding the discovery and briefing schedule for the remanded proceedings.³ We have reviewed the parties’ proposals and set the discovery and briefing schedule as follows:

Discovery Schedule

The parties agree regarding the voluntary production of certain evidence (*see* Ex. 3003, 2), discussed in more detail below. The parties were unable to reach agreement regarding the timing of potential motion practice for additional discovery. *See id.* at 2–3. Having considered the parties’ positions, and considering also the desire for a just, speedy, and inexpensive resolution to these remand proceedings, we set the discovery schedule as follows:

² Unless indicated otherwise, citations herein are to papers and exhibits filed in IPR2015-01750. Similar papers and exhibits were filed in IPR2015-01751 and IPR2015-01752.

³ The parties’ November 30, 2018, e-mail refers also to the parties’ e-mail of November 15, 2018. We enter both e-mails into the record for completeness. *See* Ex. 3002 (parties’ joint email of November 15, 2018); Ex. 3003 (parties’ joint email of November 30, 2018).

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Item Due	Deadline
Initial production of documents/declarations	January 4, 2019
Depositions of declarants, completed by:	February 1, 2019
Patent Owner's Motion for Additional Discovery (optional)	February 8, 2019
Petitioner's Opposition to Motion for Additional Discovery	1 week from Patent Owner's Motion
Production of Additional Discovery (if granted)	2 weeks from Board Order

Pursuant to the parties' agreement, Petitioner's initial production shall include "documentary and/or testimonial evidence responsive to the list of discovery items RPX proposed in the parties' joint e-mail to the Board of November 15, 2018." Ex. 3003, 2; *see also* Ex. 3002, 5–6. Further pursuant to the parties' agreement, "[e]ach party should serve, during the production period, any new evidence on which that party intends to rely in its briefing." Ex. 3003, 2.

Petitioner also shall include in its initial production any "[d]ocuments discussing any efforts by RPX to shield its clients from being named as real parties in interest in *inter parte* [sic] reviews and covered business method reviews." *RPX*, 897 F.3d at 1364 (Reyna, J. concurring); *see* Ex. 3003, 2 (noting parties' agreement on this point).

Briefing Schedule

The parties have provided a joint proposal for the briefing schedule. *See* Ex. 3003, 1–2. Based generally on the parties' proposal, we set the briefing schedule for these remand proceedings as follows:

IPR2015-01750 (Patent 8,484,111 B2)
IPR2015-01751, IPR2015-01752 (Patent 7,356,482 B2)

Paper	Deadline	Length
Petitioner's Opening Brief	4 weeks (a) from end of the deposition period (if no motion for additional discovery, i.e., March 1, 2019) — or — (b) from the Board's decision on any motion for additional discovery (if a motion is filed)	14,000 words
Patent Owner's Opposition	3 weeks from Petitioner's Opening Brief	14,000 words
Petitioner's Reply Brief	2 weeks from Patent Owner's Opposition	7,000 words
Patent Owner's Sur-Reply Brief	None authorized at this time ⁴	
Oral Hearing	To be determined	

Because the issues on remand are the same in each proceeding, the same briefs shall be filed in each of the three proceedings. Thus, the parties are authorized to use a single caption listing all three cases, and shall file identical papers in each captioned case. Further, in accordance with the parties' agreement "each party's briefing should rely on evidence already of record or served during the discovery period, unless the parties agree otherwise or other authorization is obtained from the Board." Ex. 3003, 2.

It is so ORDERED.

⁴ Patent Owner may contact the Board to discuss a Sur-Reply if it believes one is necessary after reviewing Petitioner's Reply Brief.

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