

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.,
Petitioner,

ARUBA NETWORKS, INC.,
HEWLETT PACKARD ENTERPRISE COMPANY, and HP, INC.,
Petitioner,

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2016-00766 (Patent 5,659,891)
Case IPR2016-00768 (Patent 5,659,891)¹

Before MEREDITH C. PETRAVICK, SCOTT A. DANIELS, and
MIRIAM L. QUINN, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

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

¹ The issues are the same in each of the proceedings listed above. We, therefore, issue one Order to be filed in each proceeding.

IPR2016-00766 (Patent 5,659,891)

IPR2016-00768 (Patent 5,659,891)

On November 3, 2016, a conference call was held between counsel for the parties and Judges Petravick, Daniels, and Quinn. Patent Owner requested the call to discuss the length and scheduling of the deposition of Dr. Kakaes and changes to DUE DATES 1, 2, and 3 of the Scheduling Order. This Order summarizes the conference call.

The parties dispute whether the duration of Patent Owner's cross-examination of Petitioners' declarant, Dr. Kakaes, should be 7 or 14 hours, total for these proceedings. Patent Owner argued that it was entitled to 14 hours pursuant to 37 C.F.R. § 42.53(c)(2) because the proceedings have not been joined. Petitioners argued that cross-examination should be limited to 7 hours because of substantial similarities between the proceedings.

Rule 42.53(c)(2) states that cross-examination is limited to seven hours, unless otherwise ordered by the Board. After consideration of the information presented during the call, the Board ordered that the cross-examination of Dr. Kakaes is limited to 10 hours total for both proceedings. The Petitions in these proceedings challenged the same five claims of U.S. Patent No. 5,659,891 under substantially the same grounds and with substantially the same evidence and analysis. Dr. Kakaes's declarations are substantially the same. Thus, good cause exists to limit the duration Dr. Kakaes' cross-examination to 10 hours.

Patent Owner also indicated that the parties had not come to an agreement as to whether the cross-examination of Dr. Kakaes would take place over one day or two days. In addition, Patent Owner indicated that the parties agreed to stipulate to later dates for Due Dates 1, 2, and 3, but had not come to an agreement as to the exact dates. Petitioner indicated that they were willing to continue discussing these scheduling issues with Patent

IPR2016-00766 (Patent 5,659,891)

IPR2016-00768 (Patent 5,659,891)

Owner. The Board stated that the parties should meet and confer after the conference call.

ORDER

It is:

ORDERED that the cross-examination of Dr. Kakaes is limited to 10 hours total for both proceedings.

PETITIONER:

J. Steven Baughman
Megan F. Raymond
ROPES & GRAY LLP
steven.baughman@ropesgray.com
megan.raymond@ropesgray.com

PATENT OWNER:

John R. Kasha
Kelly L. Kasha Kasha Law LLC
john.kasha@kashalaw.com
kelly.kasha@kashalaw.com