

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SONY MOBILE COMMUNICATIONS (USA) INC.,
SONY MOBILE COMMUNICATIONS AB, and SONY MOBILE
COMMUNICATIONS INC.,
Petitioner,

v.

CREATIVE TECHNOLOGY LIMITED,
Patent Owner.

Case IPR2016-01407
Patent 6,928,433

Before THOMAS L. GIANNETTI, PATRICK M. BOUCHER, and
MELISSA A. HAAPALA, *Administrative Patent Judges*.

HAAPALA, *Administrative Patent Judge*.

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

A conference call was held between counsel for the parties and Judges Giannetti, Boucher, and Haapala on July 17, 2017. The purpose of the call was to discuss Patent Owner's email request, under 37 C.F.R. 42.20(b), for authorization to file a motion to dismiss for lack of jurisdiction on the basis that the *inter partes* review proceeding violates Article III and the Seventh Amendment of the Constitution. *See* Ex. 3003. Petitioner opposes the request. *Id.* Patent Owner's email has been entered in the record as Exhibit 3003.

Patent Owner indicates the purpose of its request is to preserve the issue in light of the Supreme Court's recent grant of certiorari in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 2017 WL 2507340 (U.S. June 12, 2017). But, Patent Owner also acknowledges that its argument is foreclosed under existing Federal Circuit precedent. *See id.*; *see also MCM Portfolio LLC v. Hewlett-Packard Co.*, 812 F.3d 1284 (Fed. Cir. 2015) (holding *inter partes* review does not violate Article III or the Seventh Amendment right to a jury trial).

Under the circumstances, rather than additional briefing that would result from filing a motion, Patent Owner agreed during the call that entry of an order noting its request would be sufficient for its intended purpose of preserving the issue raised by the proposed motion. Accordingly, Patent Owner's position is noted and its request for authorization to file a motion to dismiss is denied.

It is, therefore,

ORDERED that Patent Owner's request for authorization to file a motion to dismiss is *denied*.

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