

Kenneth Weatherwax

From: Trials <Trials@USPTO.GOV>
Sent: Tuesday, June 12, 2018 8:19 AM
To: Kenneth Weatherwax; David Hoffman; Trials
Cc: Nathan Lowenstein; IPR@sjclawpc.com; Jeffrey Shneidman
Subject: RE: IPR2016-01622 (Kingston v Polaris)

Counsel,

Patent Owner's requests are denied.

Regards,

Andrew Kellogg,
Supervisory Paralegal
Patent Trial and Appeal Board
USPTO
andrew.kellogg@uspto.gov
Direct: 571-272-5366

From: Kenneth Weatherwax <weatherwax@lowensteinweatherwax.com>
Sent: Monday, June 11, 2018 4:16 AM
To: David Hoffman <Hoffman@fr.com>; Trials <Trials@USPTO.GOV>
Cc: Nathan Lowenstein <lowenstein@lowensteinweatherwax.com>; IPR@sjclawpc.com; Jeffrey Shneidman <shneidman@fr.com>
Subject: RE: IPR2016-01622 (Kingston v Polaris)

Members of the Board,

Patent Owner agrees that it is prepared to provide the full basis for its request via email, if, given the circumstances, the Board wishes to receive argument via email.

Respectfully,

Kenneth Weatherwax
Lead Counsel for Patent Owner

From: David Hoffman [<mailto:Hoffman@fr.com>]
Sent: Monday, June 11, 2018 12:33 AM
To: Kenneth Weatherwax; Trials@uspto.gov
Cc: Nathan Lowenstein; IPR@sjclawpc.com; Jeffrey Shneidman
Subject: RE: IPR2016-01622 (Kingston v Polaris)

Members of the Board,

Petitioner objects to this supplemental request that was not provided to Petitioner prior to Patent Owner's email to the Board. Petitioner opposes both requests. Petitioner understands that the

Board does not wish to receive argument by email unless the Board requests it. If the Board would like, however, Petitioner can provide the full basis for that opposition, which is based on both the substance and timing of the request.

Best regards,

David Hoffman
Counsel for Petitioner

From: Kenneth Weatherwax <weatherwax@lowensteinweatherwax.com>
Sent: Saturday, June 9, 2018 12:29 AM
To: Trials@uspto.gov
Cc: David Hoffman <Hoffman@fr.com>; Nathan Lowenstein <lowenstein@lowensteinweatherwax.com>; IPR@sjclawpc.com; Jeffrey Shneidman <shneidman@fr.com>
Subject: RE: IPR2016-01622 (Kingston v Polaris)

To the Honorable Board:

In reference to its request earlier today (see below), Patent Owner respectfully requests that the authorization include authorization to address the Director's 5/21/18 Supplemental Brief on SAS filed in the PGS case and to submit pages 8-10 of that Brief as an exhibit. See Trial Prac. Guide, 77 FR at 48758 c.2 ("parties should be prepared to discuss with a Trial Section paralegal why the call is needed and what materials may be needed during the call, e.g., a particular exhibit.").

Also, to repeat, the date that the parties are available if a call is preferred is 9AM-2PM Wednesday June 13.

For the Board's convenience, Patent Owner hereby restates below its entire request with the above points added.

To the Honorable Board:

In the above-referenced matter (*Kingston v. Polaris*, IPR2016-01622) Patent Owner respectfully requests authorization to brief the impact of yesterday's decision in *PGS Geophysical AS v. Iancu*, --- F.3d ---- (Fed. Cir. 2018), before a decision is issued on Petitioner's request for rehearing in this matter. In the alternative, if the Board prefers a call, Patent Owner requests a call, and the parties are available for a call **Wednesday June 13** between 9AM and 2PM Eastern Daylight Time.

PGS addresses the effect of *SAS Institute, Inc. v. Iancu* on existing partial institution decisions. Patent Owner is prepared to explain why the *PGS* case supports denial of rehearing in this matter.

If, *arguendo*, the Board currently has jurisdiction in this matter it is undisputed that jurisdiction will expire no later than the appellate deadline, which is currently June 14th. In view of that constraint and the fact that Petitioner lead counsel of record is traveling until Monday, Patent Owner respectfully proposes that each party be authorized to file a 1 page brief strictly limited to addressing the impact (if any) of the *PGS* case on the present matter by noon Eastern Daylight Time Tuesday, May 12. Patent Owner requests that this authorization include authorization to address the Director's 5/21/18 Supplemental Brief on SAS filed in the PGS case, and to submit pages 8-10 of that Brief as an exhibit. See Trial Prac. Guide, 77 FR at 48758 c.2 ("parties should be prepared to discuss with a Trial Section paralegal why the call is needed and what materials may be needed during the call, e.g., a particular exhibit.").

I am authorized to state that Petitioner opposes this proposal.

Respectfully,

Kenneth Weatherwax
Lead Counsel for Patent Owner

Kenneth Weatherwax | Lowenstein & Weatherwax LLP

1880 Century Park East, Suite 815
Los Angeles, California 90067
Office: 310.307.4503

From: Kenneth Weatherwax
Sent: Friday, June 08, 2018 9:39 AM
To: Trials@uspto.gov
Cc: hoffman@fr.com; Nathan Lowenstein; IPR@sjclawpc.com; Jeffrey Shneidman
Subject: RE: IPR2016-01622 (Kingston v Polaris)

Dear Board:

The date below that the parties are available for a call is 9AM-2PM Wednesday June 13. Apologies for inadvertently omitting it.

-Ken

From: Kenneth Weatherwax
Sent: Friday, June 08, 2018 8:40 AM
To: Trials@uspto.gov
Cc: hoffman@fr.com; Nathan Lowenstein; IPR@sjclawpc.com; Jeffrey Shneidman (shneidman@fr.com)
Subject: IPR2016-01622 (Kingston v Polaris)

To the Honorable Board:

In the above-referenced matter (*Kingston v. Polaris*, IPR2016-01622) Patent Owner respectfully requests authorization to brief the impact of yesterday's decision in *PGS Geophysical AS v. Iancu*, --- F.3d ---- (Fed. Cir. 2018), before a decision is issued on Petitioner's request for rehearing in this matter. In the alternative, if the Board prefers a call, Patent Owner requests a call, and the parties are available for a call between 9AM and 2PM Eastern Daylight Time.

PGS addresses the effect of *SAS Institute, Inc. v. Iancu* on existing partial institution decisions. Patent Owner is prepared to explain why the *PGS* case supports denial of rehearing in this matter.

If, *arguendo*, the Board currently has jurisdiction in this matter it is undisputed that jurisdiction will expire no later than the appellate deadline, which is currently June 14th. In view of that constraint and the fact that Petitioner lead counsel of record is traveling until Monday, Patent Owner respectfully proposes that each party be authorized to file a 1 page brief strictly limited to addressing the impact (if any) of the *PGS* case on the present matter by noon Eastern Daylight Time Tuesday, May 12.

I am authorized to state that Petitioner opposes this proposal.

Respectfully submitted,

Kenneth Weatherwax | Lowenstein & Weatherwax LLP
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