

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX CORPORATION,
Petitioner,

v.

DIGITAL AUDIO ENCODING SYSTEMS, LLC,
Patent Owner.

Case IPR2017-00209
Patent No. 7,490,037 B2

PETITIONER'S REQUEST FOR REFUND

Pursuant to the Patent and Trademark Office’s Final Rule Setting and Adjusting Patent Fees, 78 Fed. Reg. 4211, 4233-34 (Jan. 18, 2013), Petitioner RPX Corporation (“Petitioner”) hereby requests refund of the *Inter Partes* Review Post Institution Fee in the amount of \$16,800 to be paid to Petitioner’s deposit account number 23/2825.

On November 7, 2016, Petitioner filed a Petition for *Inter Partes* Review of claims 1-4, 7, 9-15, 17-21, 24-25, 29, 31, and 32 of U.S. Patent No. 7,490,037 B2 with the Patent Trial and Appeal Board that was assigned case number IPR2017-00209. In accordance with the fee schedule specified in 37 C.F.R. § 42.15(a) Petitioner submitted payment in the amount of \$9,400 with the Board at the time of filing of its Petition to cover fees associated with Petitioner’s *Inter Partes* Review request, and a further \$16,800 in Post-Institution fees, including \$2,800 in excess claim fees.

On March 13, 2017, the Board issued a Decision denying institution of *Inter Partes* Review (Paper No. 9). Accordingly, Petitioner requests refund of \$16,800 for the post-institution fees paid to the USPTO in connection with the instant proceeding. 78 Fed. Reg. 4211, 4233-34 (“The Office also chooses to return fees for post-institution services should a review not be instituted. . . . The USPTO also sets the *inter partes* review post-institution fee at \$14,000 for a review of up to 15 claims. This fee would be returned to the petitioner if the Office does not institute a

review. Likewise, the Office sets a per claim fee of \$400 for review of each claim in excess of 15 during the post-institution trial. The entire post-institution fee would be returned to the petitioner if the Office does not institute a review.”)

Dated: March 23, 2017

By: /Elisabeth Hunt/
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CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6(e)(4)

I certify that on March 23, 2017, I will cause a copy of the foregoing document to be served via electronic mail, as previously consented to by Patent Owner, upon the following:

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dwu@devlinlawfirm.com
mmclain@devlinlawfirm.com

Date: March 23, 2017

/Virginia L. Weeks/
Virginia L. Weeks, Paralegal