

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Cases IPR2017-00210 and IPR2017-00219 (Patent 7,116,710 B1);
Case IPR2017-00297 (Patent 7,916,781 B2);
Cases IPR2017-00700, IPR2017-00701, and
IPR2017-00728 (Patent 7,421,032 B2)¹

Before KEN B. BARRETT, TREVOR M. JEFFERSON, and
JOHN A. HUDALLA, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

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

¹ This order addresses issues that are the same in the identified cases. We exercise our discretion to issue one order to be filed in each case. The parties are not authorized to use this style of heading.

IPR2017-00210, IPR2017-00219 (Patent 7,116,710 B1)
IPR2017-00297 (Patent 7,916,781 B2)
IPR2017-00700, IPR2017-00701, and
IPR2017-00728 (Patent 7,421,032 B2)

On February 15, 2018, a conference call with counsel for Petitioner, Apple, Inc., and counsel for Patent Owner, California Institute of Technology, was held with Judges Barrett, Jefferson, and Hudalla. The conference call pertained to Patent Owner's request for authorization to file Sur-Replies to address purported new arguments and evidence, including testimony from a new declarant, in Petitioner's Replies.

In our Order of February 20, 2018, we authorized Patent Owner to file Sur-Replies, and we instructed the parties to meet and confer regarding a discovery and a Sur-Reply briefing schedule and to provide a joint proposed schedule by email to the Board. We also authorized the parties to propose moving DUE DATE 6, if necessary. In accordance with that Order, counsel for Patent Owner submitted the parties' jointly proposed schedule via email on February 23, 2018. The substance of that email is shown below.

Pursuant to the Board's order dated February 20, 2018, entered in each of the cases listed above, the parties jointly submit this proposed schedule for Patent Owner's sur-reply briefing as well as additional proposed schedule modifications. As detailed in the table, below, the parties propose that Patent Owner's sur-reply be due on Due Date 5 in each proceeding. The highlighted portions of the table represent additions or modifications to the existing schedule.

IPR2017-00210, IPR2017-00219 (Patent 7,116,710 B1)
 IPR2017-00297 (Patent 7,916,781 B2)
 IPR2017-00700, IPR2017-00701, and
 IPR2017-00728 (Patent 7,421,032 B2)

	<u>IPR2017-00210</u>	<u>IPR2017-00219</u>	<u>IPR2017-00297</u>	<u>IPR2017-00700</u>	<u>IPR2017-00701</u>	<u>IPR2017-00728</u>
DUE DATE 4 (Motion for Observations/ Motion to Exclude Evidence/ Request for Oral Argument)	3/5/2018	3/5/2018	2/26/2018 [change to 3/5/2018]	3/28/2018	3/28/2018	3/28/2018
DUE DATE 5 (Response to Observations/ Opposition to Motion to Exclude/ Patent Owner's Sur-Reply)	3/19/2018	3/19/2018	3/12/2018 [change to 3/19/2018]	4/11/2018	4/11/2018	4/11/2018
DUE DATE 6 (Reply to Opposition to Motion to Exclude)	3/26/2018	3/26/2018	3/19/2018 [change to 3/26/2018]	4/18/2018	4/18/2018	4/18/2018
DUE DATE 7 (Oral Hearing)	4/19/2018	4/19/2018	4/19/2018	5/8/2018	5/8/2018	5/8/2018
Final Written Decision Est.	7/3/2018	7/3/2018	7/7/2018	8/8/2018	8/8/2018	8/9/2018

Email of February 23, 2018, from Matthew A. Argenti to Trials@uspto.gov.

Under the circumstances of these cases, we determine that the parties' jointly proposed schedule for Sur-Reply briefing is acceptable. We likewise determine that the parties' proposed changes to DUE DATES 4, 5, and 6 in IPR2017-00297 are acceptable.

Accordingly, it is:

ORDERED that Patent Owner's Sur-Reply is due on DUE DATE 5 in each proceeding;

FURTHER ORDERED that, in IPR2017-00297, DUE DATES 4, 5, and 6 are changed to March 5, 2018, March 19, 2018, and March 26, 2018, respectively.

IPR2017-00210, IPR2017-00219 (Patent 7,116,710 B1)
IPR2017-00297 (Patent 7,916,781 B2)
IPR2017-00700, IPR2017-00701, and
IPR2017-00728 (Patent 7,421,032 B2)

For PETITIONER:

Richard Goldenberg
Dominic E. Massa
Michael Smith
WILMER CUTLER PICKERING HALE AND DORR LLP
richard.goldenberg@wilmerhale.com
dominic.massa@wilmerhale.com
michaelh.smith@wilmerhale.com

For PATENT OWNER:

Michael T. Rosato
Matthew A. Argenti
Richard Torczon
WILSON SONSINI GOODRICH & ROSATI
mrosato@wsgr.com
margenti@wsgr.com
rtorczon@wsgr.com

Todd M. Briggs
Kevin P.B. Johnson
QUINN EMANUEL URQUHART & SULLIVAN LLP
toddbriggs@quinnemanuel.com
kevinjohnson@quinnemanuel.com