

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00297¹
Patent 7,916,781 B2

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

HUDALLA, *Administrative Patent Judge*.

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

¹ Case IPR2017-00423 has been consolidated with this proceeding.

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On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on less than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 2018 WL 1914661, at *10 (U.S. Apr. 24, 2018). In our Decisions on Institution, we determined that Petitioner demonstrated a reasonable likelihood that it would establish that at least one of the challenged claims of the '781 patent is unpatentable. IPR2017-00297, Paper 16; IPR2017-00423, Paper 16. We modify our Decisions on Institution to institute on all of the challenged claims and all of the grounds presented in the Petitions from IPR2017-00297 (Paper 5) and IPR2017-00423 (Paper 5). *See* Guidance on the Impact of SAS on AIA Trial Proceedings (April 26, 2018), available at <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/trials/guidance-impact-sas-aia-trial>.

The parties shall confer to discuss the impact, if any, of this Order on the current schedule. If, after conferring, the parties wish to change the schedule or submit further briefing, the parties must, within one week of the date of this Order, request a conference call with the panel to seek authorization for such changes or briefing.

In consideration of the foregoing, it is hereby:

ORDERED that our Decisions on Institution are modified to include review of all challenged claims and all grounds presented in the Petitions from IPR2017-00297 (Paper 5) and IPR2017-00423 (Paper 5); and

FURTHER ORDERED that Petitioner and Patent Owner shall confer to determine whether they desire any changes to the schedule or any further

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briefing, and, if so, shall request a conference call with the panel to seek authorization for such changes or briefing within one week of the date of this Order.

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