

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)
Case IPR2017-00700 (Patent 7,421,032 B2)
Case IPR2017-00701 (Patent 7,421,032 B2)
Case IPR2017-00728 (Patent 7,421,032 B2)²

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

On October 11, 2017, Patent Owner sent an email
to Trials@uspto.gov requesting certain modifications to the schedules in the

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

² This Order pertains to all of these cases. Therefore, we exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

IPR2017-00297 (Patent 7,916,781 B2)
IPR2017-00700 (Patent 7,421,032 B2)
IPR2017-00701 (Patent 7,421,032 B2)
IPR2017-00728 (Patent 7,421,032 B2)

above-captioned proceedings. We discuss the requested modifications in turn.

Regarding IPR2017-00297, Patent Owner requests that we move DUE DATE 1, the due date for Patent Owner's Response and any motion to amend, to November 21, 2017. As a result of a first stipulation between the parties, DUE DATE 1 was set for October 26, 2017. IPR2017-00297, Paper 21. Patent Owner contends the extension of time is warranted because the decision in *Aqua Products, Inc. v. Matal*, No. 2015-1177, 2017 WL 4399000 (Fed. Cir. Oct. 4, 2017) (en banc), "brought a significant change to the standard governing motions to amend." Accordingly, Patent Owner requests the extra time "to assess whether Caltech will file a motion to amend and to allow sufficient time to prepare such a motion." Petitioner opposes Patent Owner's request.

Since the time of Patent Owner's email, the parties filed a second stipulation that moved DUE DATE 1 to November 9, 2017. Paper 25. Although we agree with Patent Owner that some extra time is warranted in this case for Patent Owner to consider the impact of *Aqua Products*, the parties' second stipulation moves DUE DATE 1 commensurate with the amount of time the panel would have provided Patent Owner. We determine that the parties' second stipulation provides Patent Owner sufficient time to consider its positions in the wake of *Aqua Products*. We decline to provide a further extension, because moving DUE DATE 1 to November 21, 2017, would have too great of an impact on the schedule of IPR2017-00297.

Also regarding IPR2017-00297, Patent Owner requests that we move DUE DATE 7, the date for oral argument, to May 8, 2018. In response to

IPR2017-00297 (Patent 7,916,781 B2)
IPR2017-00700 (Patent 7,421,032 B2)
IPR2017-00701 (Patent 7,421,032 B2)
IPR2017-00728 (Patent 7,421,032 B2)

prior request from Patent Owner, we previously had moved DUE DATE 7 back to April 19, 2018. IPR2017-00297, Paper 23. Patent Owner seeks this change so that IPR2017-00297 is argued at the same time as IPR2017-00700, IPR2017-00701, and IPR2017-00728, all of which involve a related patent and similar grounds of unpatentability. Petitioner opposes Patent Owner's request.

We deny Patent Owner's request, because the additional delay in holding oral argument for IPR2017-00297 would jeopardize our ability to issue a Final Written Decision within one year of institution, as required by 37 C.F.R. § 42.100(c). The oral argument date is already later than we had intended based on Patent Owner's prior request to move DUE DATE 7.

Finally, Patent Owner requests that we move DUE DATE 1 in each of IPR2017-00700, IPR2017-00701, and IPR2017-00728 to November 21, 2017. Similar to above, Patent Owner argues that we should align these cases because they involve a related patent and similar grounds of unpatentability. Petitioner opposes Patent Owner's request. We deny Patent Owner's request because Patent Owner has not shown good cause for the requested changes.

Accordingly, it is

ORDERED that all of Patent Owner's requests to change the schedules in these cases are *denied*.

IPR2017-00297 (Patent 7,916,781 B2)
IPR2017-00700 (Patent 7,421,032 B2)
IPR2017-00701 (Patent 7,421,032 B2)
IPR2017-00728 (Patent 7,421,032 B2)

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