

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner,

v.

PAPST LICENSING GMBH & CO. KG,
Patent Owner.

Case IPR2017-00714¹
Patent 6,470,399 B1

Before JONI Y. CHANG, JENNIFER S. BISK, and JAMES B. ARPIN,
Administrative Patent Judges.

CHANG, *Administrative Patent Judge.*

ORDER
Conduct of Proceeding and Expunging Demonstrative Exhibits
37 C.F.R. §§ 42.5 and 42.7(a)

¹ Case IPR2017-01808 has been joined with this proceeding.

In our prior Order, we stated that “[t]he parties shall . . . file demonstrative exhibits with the Board, as a separate exhibit in accordance with 37 C.F.R. § 42.63.” Paper 29, 2–3. Under 37 C.F.R. § 42.63(c), “[e]ach party’s exhibits must be uniquely numbered sequentially in a range the Board specifies,” and “for the patent owner, the range is 2001–2999.” Moreover, 37 C.F.R. § 42.63(e) requires each party to “maintain an exhibit list with the exhibit number and a brief description of each exhibit.”

On February 6, 2018, Patent Owner filed its demonstrative exhibit as Exhibit 2007, which has been used previously in this proceeding for the confidential settlement agreement filed on January 3, 2018 (Ex. 2007). Pursuant to our authorization given during the oral hearing on February 13, 2018, Patent Owner refiled its demonstrative exhibit as Exhibit 2009. However, Patent Owner did not provide an updated exhibit list. Accordingly, Patent Owner’s original demonstrative exhibit filed on February 6, 2018, will be expunged. Patent Owner shall file an updated exhibit list, in accordance with 37 C.F.R. § 42.63(e), within five (5) business days.

In addition, pursuant to our prior Order (Paper 25), Petitioner filed its demonstrative exhibit (Ex. 1025). Petitioner was permitted to use the demonstrative exhibit during its *20-minute* presentation at the oral hearing.

As we explained during the oral hearing, demonstrative exhibits are neither substantive briefing papers nor evidence, but merely visual aids for use at the oral hearing. Based on our review of Petitioner’s demonstrative exhibit, we determine that the demonstrative exhibit that includes *86 pages* of extensive text amounts to additional briefing. Further, during the oral hearing, Petitioner made no reference to some of its demonstrative exhibit

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pages and only cursory reference to many, if not most, of the remaining demonstrative exhibit pages. Where Petitioner did reference its demonstrative exhibit pages, for the most part, it identified the source of the demonstrative exhibit page in the record. Accordingly, we hereby expunge Petitioner's demonstrative exhibit (Ex. 1025).

It is:

ORDERED that Patent Owner's original demonstrative exhibit filed on February 6, 2018, as Exhibit 2007, is expunged from the record;

FURTHER ORDERED that Petitioner's demonstrative exhibit filed on February 6, 2018, as Exhibit 1025, is expunged from the record; and

FURTHER ORDERED that, within 5 business days from the entry of this Order, Patent Owner shall file an updated exhibit list in accordance with 37 C.F.R. § 42.63(e), listing each of its exhibits with the exhibit number and a brief description.

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