

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00700 (Patent 7,421,032 B2)
Case IPR2017-00701 (Patent 7,421,032 B2)
Case IPR2017-00728 (Patent 7,421,032 B2)¹

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

BARRETT, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding and
Authorizing Motion to File Supplemental Information
37 C.F.R. §§ 42.5 and 42.123

¹ This Decision will be entered in each case. The parties are not authorized to use this caption style.

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

On September 14, 2017, 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, to address Petitioner's request to file a motions to submit supplemental information pursuant to 37 C.F.R. § 42.123.

Petitioner seeks to submit supplemental information related to prior art references in accordance with Section 42.123. Petitioner indicated that certain of its intended supplemental information has already been served upon Patent Owner as supplemental evidence under 37 C.F.R. § 42.64(b)(2). Patent Owner opposes Petitioner's request to submit supplemental information.

Petitioner noted that its request for authorization in IPR2017-00701 and IPR2017-00728 was made within one month of institution. *See* 37 C.F.R. § 42.123(a)(1) ("A request for the authorization to file a motion to submit supplemental information is [to be] made within one month of the date the trial is instituted."). Nevertheless, Petitioner acknowledged that in IPR2017-00700, its request was made three days after the one month deadline. Accordingly, Petitioner asks us to honor its request for authorization in IPR2017-00700 and to allow Petitioner to file a motion to submit supplemental information in all three cases.

Having heard from the parties on this issue, we authorize Petitioner to file a Motion to File Supplemental Information pursuant to 37 C.F.R. § 42.123, no later than September 22, 2017. Petitioner shall identify each item of its intended supplemental information that has already been served as supplemental evidence under Section 42.64(b)(2) and explain how it is

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also supplemental information under Section 42.123. Petitioner's Motion additionally shall address the issue of the timeliness of the request for authorization in IPR2017-00700. Petitioner's motions, in IPR2017-00701 and IPR2017-00728, shall not exceed 12 pages, and, in IPR2107-00700, shall not exceed 15 pages. We also authorize Patent Owner to file in each subject case an Opposition to Petitioner's Motion, also not to exceed 12 pages in IPR2017-00701 and IPR2017-00728 and 15 pages in IPR2017-00700, no later than September 29, 2017. No reply is authorized.

ORDER

It is:

ORDERED that Petitioner is authorized to file Motions to File Supplemental Information as discussed herein, no later than September 22, 2017; and

FURTHER ORDERED that Patent Owner is authorized to file Oppositions to Petitioner's Motions to File Supplemental Information, no later than September 29, 2017.

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IPR2017-00728 (Patent 7,421,032 B2)

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