

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION AND HTC AMERICA, INC.,
Petitioner,

v.

JOE ANDREW SALAZAR,
Patent Owner.

Case IPR2018-00273
Patent 5,802,467

Before JAMESON LEE, MATTHEW J. McNEILL, and
STACY B. MARGOLIES, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5(a)

On February 15, 2018, the Board received an email communication from Patent Owner requesting an extension of time to file Patent Owner's Preliminary Response, which is due March 12, 2018. Patent Owner's email indicated Petitioner opposes the extension. Subsequently, Petitioner and Patent Owner each submitted email communications containing substantive

arguments regarding whether the Board should grant the requested extension.

We note that all relief except for the petition requesting institution of trial must be in the form of a motion. 37 C.F.R. § 42.20(a). The making of all motions, except those already expressly authorized by statute, rule, or general order, require prior Board authorization. 37 C.F.R. § 42.20(b). Patent Owner should not have directly requested an extension of time, because it had not been authorized to make such a motion. Instead, Patent Owner should have requested a conference call to request authorization to file a motion for extension of time. Substantive arguments should not be made in any email requesting a conference call, any response to an email requesting a conference call, or any reply to such a response. These communications should only include a general identification of the issues to be raised on the call, undisputed facts, the precise relief sought, and whether there is opposition.

The Board will take Patent Owner's email as a request for a conference call to request authorization to file a motion for an extension of time. The Board will not consider the substantive arguments in Patent Owner's email communication because these arguments were included improperly. The Board also will not consider each party's subsequent email communications because they improperly include substantive arguments. The Board has scheduled a conference call with the parties regarding the requested extension and each party will have the opportunity to present its position during this call. The parties shall not submit additional written communications regarding the requested extension unless otherwise so requested by the Board.

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ORDER

Accordingly, it is

ORDERED that the parties shall not include substantive argument in any email communication to the Board; and

FURTHER ORDERED that any party violating this order may be subject to sanctions pursuant to 37 C.F.R. § 42.12.

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PETITIONER:

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