

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

UNILOC 2017 LLC,
Patent Owner.

CaseIPR2018-00884
Patent 8,539,552 B1

Before SALLY C. MEDLEY, KARL D. EASTHOM, and
SEAN P. O'HANLON, *Administrative Patent Judges*.

O'HANLON, *Administrative Patent Judge*.

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

I. INTRODUCTION

On February 21, 2019, counsel for Petitioner, Apple Inc., sent email correspondence to the Board in which it sought permission to file a motion “to strike the Easttom Declaration (Exhibit 2001) and all references or citations to the declaration in any filing.” Petitioner characterized its request as being “an alternative to Patent Owner making the declarant available for cross-examination.” Petitioner indicated that it had conferred with Patent Owner, and that Patent Owner did not oppose the request.

II. DISCUSSION

The Scheduling Order provides that “[c]ross-examination ordinarily ends no later than a week before the filing date for any paper in which the cross-examination testimony is expected to be used.” Paper 9, 3. The parties have extended Due Date 2, the date on which Petitioner may file a reply to Patent Owner’s Response to the Petition, to April 16, 2019. Paper 10, 2. Thus, the time for cross-examining Mr. Easttom does not end for several weeks, during which time Patent Owner may make Mr. Easttom available for cross-examination. Petitioner’s request, therefore, appears to be premature.

In the event that Patent Owner does not make Mr. Easttom available for cross-examination, Petitioner can explain why the Board should give no weight to Mr. Easttom’s testimony in Petitioner’s reply.

III. ORDER

Accordingly, it is:

ORDERED that Petitioner’s request is *denied*.

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