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Paper No. 6
Entered: January 30, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

MEC RESOURCES, INC.,
Patent Owner.

Case IPR2018-00286
Patent 6,137,390

Before KALYAN K. DESHPANDE, TREVOR M. JEFFERSON, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

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

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The Board held a conference call with MEC Resources, Inc. (“Patent Owner”) and Apple, Inc. (“Petitioner”). A court reporter was also present on the conference call, and Patent Owner agrees to submit the transcript to the Board when it is available.

Patent Owner requested authorization to file a motion to dismiss and a stay of the deadline for Patent Owner’s Preliminary Response. Patent Owner’s basis for these requests is Patent Owner’s alleged tribal sovereign immunity. Petitioner opposed, arguing that the issue of sovereign immunity has already been decided by the Board. Petitioner indicated, though, that if the Board authorized Patent Owner to file a motion to dismiss, Petitioner did not oppose a stay of the deadline for Patent Owner’s Preliminary Response.

The Board determines that briefing on the issue of Patent Owner’s alleged tribal sovereign immunity from this proceeding is warranted. Accordingly, the Board authorized Patent Owner to file a motion to dismiss on the basis of tribal sovereign immunity of no more than 25 pages due by February 13, 2018. The Board also authorized Petitioner to file an opposition to the motion, also of no more than 25 pages due by February 27, 2018. Petitioner will request a conference call with the Board and Patent Owner by February 16, 2018, if an extension of time or other relief is allegedly needed. Patent Owner is further authorized to file a reply to the Petitioner’s opposition of no more than 15 pages due by March 8, 2018. Evidence relevant to the tribal sovereign immunity issue may be filed as exhibits accompanying the papers.

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Accordingly, it is:

ORDERED that Patent Owner is authorized to file a motion to dismiss in IPR2018-00286, to not exceed 25 pages, and is due on February 13, 2018;

FURTHER ORDERED that Petitioner is authorized to file an opposition to Patent Owner's motion to dismiss, to not exceed 25 pages, and is due on February 27, 2018;

FURTHER ORDERED that Petitioner will request a conference call with the Board and Patent Owner by February 16, 2018 if any extension of time or other relief is allegedly needed;

FURTHER ORDERED that Patent Owner is authorized to file a reply to Petitioner's opposition, to not exceed 15 pages, and is due on March 8, 2018; and

FURTHER ORDERED that the deadline for Patent Owner's Preliminary Response is stayed and will be due one month from the issuance of a decision on Patent Owner's motion to dismiss.

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