

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GARMIN INTERNATIONAL, INC.  
and GARMIN USA, INC.  
Petitioner

v.

CUOZZO SPEED TECHNOLOGIES LLC  
Patent Owner

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Case IPR2013-00373  
Patent 6,778,074

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Before JAMESON LEE, MICHAEL P. TIERNEY, and  
JOSIAH C. COCKS, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

SCHEDULING ORDER

A. INITIAL CONFERENCE CALL

An initial conference call with the Board is scheduled for 2:00 PM, Eastern Time on January 9, 2014.

B. DUE DATES

This order sets due dates for the parties to take action in this trial. The parties may stipulate to different dates for DUE DATES 1 through 3 (earlier or later, but no later than DUE DATE 4). A notice of the stipulation, specifically identifying the changed due dates, must be promptly filed. The parties may not stipulate to an extension of DUE DATES 4-7.

In stipulating to difference times, the parties should consider the effect of the stipulation on times to object to evidence (37 C.F.R. § 42.64(b)(1)), to supplement evidence (37 C.F.R. § 42.64(b)(2)), to conduct cross-examination (37 C.F.R. § 42.53(d)(2)), and to file papers relying on the evidence and cross-examination testimony (see section B, below).

The parties are reminded that the Testimony Guidelines appended to the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48772 (Aug. 14, 2012) (Appendix D), apply to this proceeding. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorney fees incurred by a party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness.

1. DUE DATE 1

The patent owner may file—

- a. A response to the petition (37 C.F.R. § 42.120), and
- b. A motion to amend the patent (37 C.F.R. § 42.121).

Any such response or motion to amend by the patent owner must be filed by DUE DATE 1. If the patent owner elects not to file anything, the patent owner must arrange a conference call with the parties and the Board. The patent owner is cautioned that any argument for patentability not raised and fully briefed in the response will be deemed waived.

## 2. DUE DATE 2

The petitioner may file a reply to the patent owner's response and an opposition to the patent owner's motion to amend. Any such filing must be made by DUE DATE 2.

## 3. DUE DATE 3

The patent owner may file a reply to the petitioner's opposition to patent owner's motion to amend. Any such filing must be made by DUE DATE 3.

## 4. DUE DATE 4

a. The petitioner may file a motion for an observation on the cross-examination testimony of a reply witness. (See section C, below). Any such filing must be made by DUE DATE 4.

b. Each party may file a motion to exclude evidence (37 C.F.R. § 42.64(c)) and a request for oral argument (37 C.F.R. § 42.70(a)). Any such filing must be made by DUE DATE 4.

## 5. DUE DATE 5

a. The patent owner may file a reply to a petitioner's observation on cross-examination testimony. Any such filing must be made by DUE DATE 5.

b. Each party may file an opposition to a motion to exclude evidence. Any such filing must be made by DUE DATE 5.

6. DUE DATE 6

Each party may file a reply to an opposition to a motion to exclude evidence. Any such filing must be made by DUE DATE 6.

7. DUE DATE 7

The oral argument (if requested by either party) is set for DUE DATE 7.

C. CROSS-EXAMINATION

Except as the parties might otherwise agree, for each due date –

1. Cross-examination begins after any supplemental evidence is due.  
37 C.F.R. § 42.53(d)(2).

2. Cross-examination ends no later than a week before the filing date for any paper in which the cross-examination testimony is expected to be used. *Id.*

D. MOTION FOR OBSERVATION ON CROSS-EXAMINATION

A motion for observation on cross-examination provides the petitioner with a mechanism to draw the Board's attention to relevant cross-examination testimony of a reply witness, since no further substantive paper is permitted after the reply. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). The observation should not exceed a single, short paragraph. The patent owner may respond to the observation. Any response must be equally concise and specific.

DUE DATE APPENDIX

DUE DATE 1..... February 18, 2014

Patent owner's response to the petition

Patent owner's motion to amend the patent

DUE DATE 2..... April 18, 2014

Petitioner's reply to Patent Owner's response to petition

Petitioner's opposition to Patent Owner's motion to amend

DUE DATE 3..... May 19, 2014

Patent Owner's reply to Petitioner's opposition  
to Patent Owner's motion to amend

DUE DATE 4..... June 9, 2014

Petitioner's motion for observation regarding  
cross-examination of reply witness

Motion to exclude evidence

Request for oral argument

DUE DATE 5..... June 23, 2014

Patent Owner's response to observation

Opposition to motion to exclude evidence

DUE DATE 6..... June 30, 2014

Reply to opposition to motion to exclude evidence

DUE DATE 7..... July 16, 2014

Oral argument (if requested)

For PETITIONER:

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