

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JIAWEI TECHNOLOGY (HK) LTD., JIAWEI TECHNOLOGY (USA) LTD.,
SHENZHEN JIAWEI PHOTOVOLTAIC LIGHTING CO., LTD., ATICO
INTERNATIONAL (ASIA) LTD., ATICO INTERNATIONAL USA, INC.,
CHIEN LUEN INDUSTRIES CO., LTD., INC. (CHIEN LUEN FLORIDA),
CHIEN LUEN INDUSTRIES CO., LTD., INC. (CHIEN LUEN CHINA),
COLEMAN CABLE, LLC, NATURE'S MARK, RITE AID CORP., SMART
SOLAR, INC., AND TEST RITE PRODUCTS CORP.,
Petitioner,

v.

SIMON NICHOLAS RICHMOND,
Patent Owner.

IPR2015-00580
Patent 7,429,827 B2

Before WILLIAM V. SAINDON, JUSTIN T. ARBES and
BARRY L. GROSSMAN, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

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

I. DISCUSSION

On January 16, 2015, Petitioner requested joinder of IPR2015-00580 and IPR2014-00938. IPR2015-00580 seeks to address four claims on which review was denied in IPR2014-00938. Petitioner is seeking to expedite Patent Owner's preliminary response period in IPR2015-00580. We have the authority to expedite a preliminary response under 37 C.F.R. § 42.5(c)(1) ("Times set by rule . . . may be modified by order.").

We held a conference call on February 11, 2015, during which time we heard the views of both sides on the matter. For the following reasons, we grant Petitioner's request to expedite Patent Owner's preliminary response.

The issue in IPR2015-00580 is largely the same as the issue in IPR2014-00938. Patent Owner addressed Petitioner's asserted ground that claims 31-34 of the '827 patent would have been obvious in view of Chliwnyj and Wu in the Preliminary Response filed in IPR2014-00938. Petitioner now asserts that claims 31-34 would have been obvious in view of Chliwnyj, Wu, and Lau. The new reference, Lau, was at issue in IPR2014-00938 with respect to another claim. Accordingly, the new ground involves only four claims and is substantially similar to the old ground, with the addition of a new reference with which Patent Owner is familiar already. Thus, we determine it would not overly burden Patent Owner to file its preliminary response expeditiously.

In addition, if we were not to expedite Patent Owner's preliminary response and then later grant joinder, it would require significant scheduling changes in IPR2014-00938. For example, Patent Owner would likely have to engage in a second round of discovery because Due Date 1 in IPR2014-00938 (March 23, 2015) would have passed.

IPR2015-00580
Patent 7,429,827

We are to construe our rules “to secure the just, speedy, and inexpensive resolution of every proceeding.” 37 C.F.R. § 42.1(b). Weighing the above considerations, we determine the most efficient and least burdensome path in this case and in IPR2014-00938 is to set Patent Owner’s preliminary response in IPR2015-00580 to be due no later than March 16, 2015.

We are mindful that this may affect the parties’ preparation in IPR2014-00938 and we encourage the parties to confer and to stipulate to new due dates in that proceeding if the need arises.

We also hereby authorize Petitioner to submit, at its option, a reply to Patent Owner’s Opposition to Petitioner’s Motion for Joinder, should Patent Owner file an opposition to that Motion. The reply is limited to no more than 5 pages and is due by March 16, 2015.

II. ORDER

In view of the foregoing, it is hereby:

ORDERED that Patent Owner’s Preliminary Response must be uploaded into PRPS no later than March 16, 2015; and

FURTHER ORDERED that Petitioner is authorized to submit a reply to Patent Owner’s Opposition to Petitioner’s Motion for Joinder of no more than 5 pages by March 16, 2015.

IPR2015-00580
Patent 7,429,827

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