

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NVIDIA CORPORATION,
Petitioner,

v.

POLARIS INNOVATIONS LIMITED,
Patent Owner.

Case IPR2017-00381
Patent 7,886,122 B2

Before SALLY C. MEDLEY, BARBARA A. PARVIS, and
MONICA S. ULLAGADDI, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

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

On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on less than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 2018 WL 1914661, at *10 (U.S. Apr. 24, 2018). In our Decision on Institution, we determined that Petitioner demonstrated a reasonable likelihood that it would establish that at least one of the challenged claims of U.S. Patent No 7,886,122 B2 is unpatentable. Paper 9. We modify our Decision on Institution to institute on all the challenged claims and all the grounds presented in the IPR2017-00381 Petition (Paper 2). *See Guidance on the Impact of SAS on AIA Trial Proceedings* (April 26, 2018), available at <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/trials/guidance-impact-sas-aia-trial>.

On May 2, 2018, a conference call was held with Judges Medley, Parvis, and Ullagaddi and counsel for the parties in attendance. The call was held to give the parties an opportunity to discuss the impact of *SAS* with respect to the instant proceedings. Following the call, on May 4, 2018, we issued an Order authorizing the parties to file, no later than Tuesday May 8, 2018, a joint written request regarding the non-instituted ground. Paper 33.

On May 8, 2018, the parties submitted a joint request for additional briefing. Paper 34. In particular, the parties have agreed that Patent Owner should have five (5) pages of additional briefing and Petitioner should have three (3) pages of responsive briefing. *Id.*

We authorize Patent Owner to file a supplemental brief in the instant proceeding due May 18, 2018, limited to five (5) pages, and including only arguments regarding the previously non-instituted, second ground—namely, the following ground: claims 2–4, 10–12, 17–19, 21–23, and 25–28 are

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unpatentable under § 103(a) as obvious over Lee. We also authorize Petitioner to file a supplemental responsive brief in the instant proceeding due May 25, 2018, limited to three (3) pages, and including only arguments responsive to Patent Owner's aforementioned submission.

Accordingly, it is hereby:

ORDERED that our Decision on Institution (Paper 9) is modified to include review of all challenged claims and all grounds presented in the IPR2017-00381 Petition (Paper 2);

FURTHER ORDERED that Patent Owner is authorized to file a supplemental brief due May 18, 2018, limited to five (5) pages, and including only arguments regarding the second ground—namely, the following ground: claims 2–4, 10–12, 17–19, 21–23, and 25–28 are unpatentable under § 103(a) as obvious over Lee; and

FURTHER ORDERED that Petitioner is authorized to file a supplemental responsive brief in the instant proceeding due May 25, 2018, limited to three (3) pages, and including only arguments responsive to Patent Owner's submission.

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