

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC, MICROSOFT CORPORATION, and
MICROSOFT MOBILE INC.,
Petitioner,

v.

KONINKLIJKE PHILIPS N.V.,
Patent Owner.

Case IPR2017-00447¹
Patent 7,529,806 B1

Before KEVIN F. TURNER, ROBERT J. WEINSCHENK, and
KAMRAN JIVANI, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

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

¹ Microsoft Corporation and Microsoft Mobile Inc. (“Microsoft”) filed a petition in IPR2017-01754, and Microsoft has been joined to the instant proceeding.

I. ANALYSIS

On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on fewer 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 the '806 patent is unpatentable. Paper 7, 2, 20–21. On May 11, 2018, we modified our Decision on Institution to institute on all of the challenged claims and all of the grounds presented in the Petition. Paper 25, 2. On May 23, 2018, we clarified in an email to the parties that our May 11, 2018 Order modified the Decision on Institution in this case to institute on the following grounds: 1) claims 12 and 13 as anticipated by SMIL 1.0; 2) claims 12-16 as obvious over SMIL 1.0; and 3) claims 12-16 as obvious over SMIL 1.0 and Hua. Ex. 3001, 2.

In light of our May 11, 2018 Order, the parties agreed to submit supplemental briefing. *Id.* at 3. Specifically, the parties agreed that Patent Owner would file a 5-page brief by May 25, 2018, and Petitioner would file a 5-page brief by June 1, 2018. *Id.* Consistent with the parties' agreement, we authorized Patent Owner to file a 5-page brief that addresses the newly-instituted claims and grounds by May 25, 2018, and Petitioner to file a 5-page brief that responds to issues raised in Patent Owner's brief by June 1, 2018. *Id.* at 2. This Order memorializes those instructions.

Pursuant to 35 U.S.C. § 316(a)(11), “the final determination in an inter partes review [shall] be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director . . . may adjust the time periods in this paragraph in

the case of joinder under section 315(c).” The Director has delegated the authority to adjust the one-year period to the Board. *See* 37 C.F.R. § 42.100(c). In particular, 37 C.F.R. § 42.100(c) provides:

An inter partes review proceeding shall be administered such that pendency before the Board after institution is normally no more than one year. The time can be . . . adjusted by the Board in the case of joinder.

Google LLC filed the Petition in this proceeding (Paper 2), and we later joined Microsoft Corporation and Microsoft Mobile Inc. to this proceeding under 35 U.S.C. § 315(c) (Paper 15, 16–17). In accordance with 37 C.F.R. § 42.100(c), we hereby adjust the time period for a final determination in this proceeding, which involves joinder, to permit us to consider and determine the pending issues. We will issue a final determination by September 8, 2018.

II. ORDER

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner may file a 5-page brief that addresses the newly-instituted claims and grounds by May 25, 2018;

FURTHER ORDERED that Petitioner may file a 5-page brief that responds to issues raised in Patent Owner’s brief by June 1, 2018; and

FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.100(c), we hereby adjust the date for a final determination in this proceeding to September 8, 2018.

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