

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC
Petitioner,

v.

VEVEO, INC.,
Patent Owner.

Case IPR2017-00715
Patent 8,433,696 B2

Before JONI Y. CHANG, MINN CHUNG, and
KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

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

On May 17, 2018 a conference call was held with counsel for the parties to discuss our May 7, 2018 Order (Paper 29) modifying our Institution Decision in this case to include review of all the grounds presented in the Petition, in light of the April 24, 2018 Supreme Court's ruling in *SAS Institute Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018) (holding that a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition).

In our Institution Decision (Paper 8), we instituted *inter partes* review of claims 1–31 of U.S. Patent No. 8,433,696 on grounds 1 and 2 presented in the Petition (Paper 2). This constituted all of the claims presented in the Petition, but did not include ground 3. *See* Paper 2, 13. We, therefore, modified our Institution Decision to include remaining ground 3.

In an email to the Board dated May 14, 2018, the parties requested a modification to the current Scheduling Order to allow for supplemental briefing and discovery on newly added ground 3. The parties proposed the following modifications to the Scheduling Order:

- One month for Patent Owner to depose Petitioner's expert and submit a response, both limited to the newly instituted ground 3;
- One month for Petitioner to depose Patent Owner's expert and submit a reply to Patent Owner's response; and
- One month for Patent Owner to depose Petitioner's expert and submit observations.

During the conference call, we informed the parties that insufficient time remained on the schedule in this case to provide the requested supplemental briefing and discovery prior to the statutory deadline for a final written decision of July 27, 2018. We informed the parties that the final

written decision would be issued prior to July 27, 2018 with respect to grounds 1 and 2, but not ground 3. We advised the parties that after the final written decision was issued, they may file a petition for rehearing on ground 3 and we would consider allowing supplemental briefing, discovery, and oral argument on ground 3 at that time.

In consideration of the foregoing, it is hereby

ORDERED that the parties' request to modify the current Scheduling Order is denied; and

FURTHER ORDERED that the parties may file a request for rehearing after the final written decision in this case to request supplemental briefing, discovery, and oral argument on ground 3.

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Patent 8,433,696 B2

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