

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC.,
Petitioner,

v.

ZKEY INVESTMENTS, LLC.,
Patent Owner.

Case IPR2017-01278
Patent 6,820,204 B1

Before ROBERT J. WEINSCHENK, MINN CHUNG,
and CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, *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 the '204 patent is unpatentable. Paper 9, 30–31. We instituted *inter partes* review with regard to claims 1–3 and 16 of the '204 patent, but not with respect to claims 4, 5, 8–11, and 17, which also were challenged in the Petition. Paper 2, 1. Subsequent to our Decision on Institution, Patent Owner requested adverse judgement as to the instituted claims of the '204 patent. Paper 21. We have not entered an order with regard to Patent Owner's motion requesting adverse judgment. We modify our institution decision to institute on all of the challenged claims and all of the grounds presented in the Petition.

The parties shall confer to discuss the impact, if any, of this Order on the current schedule. If, after conferring, the parties wish to change the schedule, submit further briefing, or discuss the impact of this Order on Patent Owner's request for adverse judgment, the parties must, within one week of the date of this Order, request a conference call with the panel to seek authorization for such changes or briefing or to discuss the impact of this Order on Patent Owner's request for adverse judgment.

In consideration of the foregoing, it is hereby:

ORDERED that our institution decision is modified to include review of all challenged claims and all grounds presented in the Petition; and

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FURTHER ORDERED that Petitioner and Patent Owner shall confer as set forth above, and, if after conferring, the parties wish to change the schedule, submit further briefing, or discuss the impact of this Order on Patent Owner's request for adverse judgment, the parties shall request a conference call with the panel to seek authorization for such changes or briefing or to discuss the impact of this Order on Patent Owner's request for adverse judgment within one week of the date of this Order.

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