

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GLOBAL TEL\*LINK CORPORATION,  
Petitioner,

v.

SECURUS TECHNOLOGIES, INC.,  
Patent Owner.

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Case IPR2017-01437  
Patent 7,916,845 B2

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Before KEVIN F. TURNER, BARBARA A. BENOIT, and  
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

BENOIT, *Administrative Patent Judge*.

SCHEDULING ORDER

## A. GENERAL INSTRUCTIONS

### *1. Initial Conference Call*

The parties are directed to contact the Board within a month of this decision if there is a need to discuss proposed changes to this Scheduling Order or proposed motions. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,765–66 (Aug. 14, 2012) (guidance in preparing for the initial conference call). To request a conference call, the requesting party should submit a list of dates and times when both parties are available for a call.

### *2. Conference Calls with the Board*

In any request for a conference call with the Board to resolve a dispute, the requesting party shall (a) certify that it has conferred with the other party in an effort to resolve the dispute; (b) identify with specificity the issues for which agreement has not been reached; (c) identify the precise relief to be sought; and (d) propose specific dates and times at which both parties are available for the conference call. A request for a conference call, however, must not include arguments made by either party. Prior to contacting the Board, however, we encourage the parties to resolve any disputes arising in the proceeding on their own and in accordance with the precepts set forth in 37 C.F.R. § 42.1(b).

### *3. Confidential Information*

The parties must file confidential information using the appropriate availability indicator in PTAB E2E (e.g., “Board and Parties Only”), regardless of whose confidential information it is. It is the responsibility of the party whose confidential information is at issue, not necessarily the

proffering party, to file the motion to seal, unless the party whose confidential information is at issue is not a party to this proceeding.

A protective order does not exist in a case until one is filed in the case and is approved by the Board. If a motion to seal is filed by either party, the proposed protective order should be presented as an exhibit to the motion. The parties are urged to operate under the Board's default protective order, should that become necessary. *See* Default Protective Order, Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,769–71 (Appendix B). If the parties choose to propose a protective order deviating from the default protective order, they should submit the proposed protective order jointly. A marked-up comparison of the proposed and default protective orders should be presented as an additional exhibit to the motion to seal, so that the difference can be understood readily. The parties should contact the Board if they cannot agree on the terms of the proposed protective order.

The Board has a strong interest in the public availability of the proceedings. Redactions should be limited strictly to isolated passages consisting entirely of confidential information. The thrust of the underlying argument or evidence must be clearly discernible from the redacted version. Information subject to a protective order will become public if identified in a final written decision in this proceeding. A motion to expunge the information will not necessarily prevail over the public interest in maintaining a complete and understandable file history. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,761.

Notwithstanding the default filing times for an opposition and a reply reflected in 37 C.F.R. § 42.25(a):

(1) an opposition, if any, to a motion to seal is due seven days after service of the motion; and

(2) a reply, if any, to an opposition to a motion to seal is due seven days after service of the opposition.

#### *4. Motion to Amend*

Although the filing of a Motion to Amend is authorized under our Rules, Patent Owner must confer with us before filing any Motion to Amend, preferably at least ten (10) business days prior to DUE DATE 1. On November 22, 2017, the Board posted on its public website a guidance memo from the Chief Administrative Patent Judge on motions to amend in view of *Aqua Products*. See “Guidance on Motions to Amend in view of *Aqua Products*” (Nov. 21, 2017)

[https://www.uspto.gov/sites/default/files/documents/guidance\\_on\\_motions\\_to\\_amend\\_11\\_2017.pdf](https://www.uspto.gov/sites/default/files/documents/guidance_on_motions_to_amend_11_2017.pdf).

#### *5. Depositions*

The parties are reminded that the Testimony Guidelines appended to the Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,772 (Appendix D), apply to this proceeding. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorneys’ fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness. Whenever a party submits a deposition transcript as an exhibit in this proceeding, the submitting party shall file the full transcript of the deposition rather than excerpts of only those portions being cited.

### 6. *Cross-Examination*

Except as the parties might otherwise agree, for each due date—

1. Cross-examination begins after any supplemental evidence is due. 37 C.F.R. § 42.53(d)(2).
2. Cross-examination ends no later than a week before the filing date for any paper in which the cross-examination testimony is expected to be used. *Id.*

### 7. *Observations on Cross-Examination*

Observations on cross-examination provides the parties with a mechanism to draw the Board's attention to relevant cross-examination testimony of a reply witness because no further substantive paper is permitted after the reply. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,768. The observation must be a concise statement of the relevance of precisely identified testimony to a precisely identified argument or portion of an exhibit. Each observation should not exceed a single, short paragraph. The opposing party may respond to the observation. Any response must be equally concise and specific.

### 8. *Transcripts*

The Board will provide a court reporter only for the oral argument set for DUE DATE 7. A party who wishes to have a transcript of any conference call with the panel, however, may provide its own court reporter and shall file the transcript as an exhibit in the proceeding as soon as practical.

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