

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

HUAWEI TECHNOLOGIES CO., LTD.,
Patent Owner.

Case IPR2017-01471 (Patent 8,412,197 B2)
Case IPR2017-01473 (Patent 8,885,583 B2)
Case IPR2017-01474 (Patent 8,639,246 B2)
Case IPR2017-01475 (Patent 8,996,003 B2)¹

Before TREVOR M. JEFFERSON, MICHELLE N. WORMMEESTER, and
JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

REVISED SCHEDULING ORDER
37 C.F.R. § 42.5(a)

¹ This Order applies to each of the listed cases. We exercise our discretion to issue one Order to be docketed in each case. The parties, however, are not authorized to use this caption for any subsequent papers.

IPR2017-01471 (Patent 8,412,197 B2)
IPR2017-01473 (Patent 8,885,583 B2)
IPR2017-01474 (Patent 8,639,246 B2)
IPR2017-01475 (Patent 8,996,003 B2)

A. INTRODUCTION

On May 8, 2018, we modified our institution decision to include review of all challenged claims on all grounds raised in the Petition in view of the Supreme Court’s decision in *SAS Institute, Inc. v. Iancu*, 138 S. Ct. 1348 (2018) and the Office’s guidance² in view of the *SAS* decision. *See* Paper 25.³ We also ordered the parties to meet and confer to determine whether they desired additional briefing on the previously non-instituted claims and grounds, and whether any changes to the schedule would be needed to accommodate such briefing. On May 10, 2018, Patent Owner requested additional briefing and a conference call with the panel to discuss corresponding changes to the schedule.

On May 17, 2018, Judges Jefferson, Wormmeester, and Horvath participated in a conference call with the parties. Samsung Electronics Co., Ltd. (“Petitioner”) was represented by Marissa Ducca, and Huawei Technologies Co., Ltd. (“Patent Owner”) was represented by Jeffrey P. Kushan and Samuel Dillon. A transcript of the call has been filed by Patent Owner. *See* Ex. 2014 (“Tr.”). Prior to the call, the parties jointly emailed the panel to indicate they had reached agreement on a request for additional briefing and a briefing schedule. *See* Ex. 3001. Per the agreement, the parties jointly requested that Patent Owner be granted four weeks to file a

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>).

³ Citations are to the record in IPR2017-01471, unless otherwise noted.

IPR2017-01471 (Patent 8,412,197 B2)
IPR2017-01473 (Patent 8,885,583 B2)
IPR2017-01474 (Patent 8,639,246 B2)
IPR2017-01475 (Patent 8,996,003 B2)

5,000-word supplemental response to the newly instituted grounds together with a supplemental expert report, and Petitioner be granted a 19,000-word reply responsive to Patent Owner's response and supplemental response due five weeks after Petitioner's currently scheduled response. *Id.* The parties also jointly requested that all pending due dates, including the hearing date, for all pending cases between the parties (IPR2017-01471, IPR2017-01472, IPR2017-01473, IPR2017-01474, IPR2017-01475, IPR2017-01483, and IPR2017-01487) be extended by five weeks regardless of whether additional briefing is required in the cases. *Id.*

As indicated in the transcript of the call, the panel was unable to confirm its ability to reschedule all seven cases for hearing over a several day window in mid-September that would accommodate the parties' request to minimize their overseas travel. *See* Tr. 10:19–11:9. Therefore, the panel asked the parties to meet and confer to discuss whether they would prefer to leave the currently scheduled mid-August hearing dates in place, or to move the hearing dates to mid-September and risk the possibility that the cases may have to be heard in separate hearings over an extended period of time. *Id.* at 18:21–21:20.

On May 23, 2018, the parties again jointly emailed the panel, indicating that after further conferring they still wished to shift the oral hearing dates in all seven cases by five weeks, and would agree to any combination of hearing dates within a 12-day window spanning the period between September 25, 2018 and October 12, 2018. *See* Ex. 3002. The parties also requested that the hearings for IPR2017-01471, IPR2017-01474,

IPR2017-01471 (Patent 8,412,197 B2)
IPR2017-01473 (Patent 8,885,583 B2)
IPR2017-01474 (Patent 8,639,246 B2)
IPR2017-01475 (Patent 8,996,003 B2)

and IPR2017-01475, which involve related patents, be held on the same day.
Id.

B: REVISED DUE DATES

The panel has considered the parties' request, and hereby reschedules the hearing date for IPR2017-01471, IPR2017-01473, IPR2017-01474, and IPR2017-01475 to September 27, 2018. The following revised due dates apply to each of these cases:

DUE DATE 1A July 2, 2018⁴
Patent owner's supplemental response to the petition, limited to 5000 words responsive to the previously non-instituted claims and grounds
Patent owner's supplemental motion to amend the patent, limited to the previously non-instituted claims

DUE DATE 2 August 6, 2018
Petitioner's reply to patent owner's response and supplemental response to petition, limited to 19,000 words⁵
Petitioner's opposition to motion to amend

⁴ This due date applies to IPR2017-01471 and IPR2017-01473 only, no supplemental response or supplemental motion to amend is authorized for IPR2017-01474 and IPR2017-01475.

⁵ Petitioner's reply is extended to 19,000 words for IPR2017-01471 and IPR2017-01473 only. The replies for IPR2017-01474 and IPR2017-01475 are limited to 14,000 words.

IPR2017-01471 (Patent 8,412,197 B2)
IPR2017-01473 (Patent 8,885,583 B2)
IPR2017-01474 (Patent 8,639,246 B2)
IPR2017-01475 (Patent 8,996,003 B2)

DUE DATE 4 September 4, 2018

Motion for observation regarding cross-examination of reply witness

Motion to exclude evidence

Request for oral argument

DUE DATE 5 September 11, 2018

Response to observation

Opposition to motion to exclude

DUE DATE 6 September 18, 2018

Reply to opposition to motion to exclude

DUE DATE 7 September 27, 2018

Oral argument (if requested)

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.