

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HENDRICKSON USA L.L.C., GREAT DANE L.L.C., and  
QUEST GLOBAL, INC.,  
Petitioners,

v.

TRANS TECHNOLOGIES COMPANY,  
Patent Owner.

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Case IPR2017-01510  
Patent 7,669,465 B2

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Before KEN B. BARRETT, MICHAEL J. FITZPATRICK, and  
JEFFREY A. STEPHENS, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

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

On April 30, 2018, we modified our Institution Decision (Paper 7) to include review of all grounds presented in the Petition (Paper 2), including asserted grounds of (1) obviousness over Stech and Loewe (Ground 2) and (2) obviousness over White and Schultz (Ground 3). Paper 35. The parties were directed to confer to determine whether they desired any changes to the schedule or briefing not already permitted under the Scheduling Order (Paper 8), and, if so, request a conference call with the panel to seek authorization for such changes or briefing. Paper 35, 2. The parties submitted a request for a conference call along with proposed changes, agreed upon by the parties, to the briefing schedule.

On May 10, this panel held a conference call with counsel for the parties. The panel indicated that we appreciated the parties working together to agree upon modifications to the schedule in light of our modification of the institution decision. The panel asked the parties whether it would be possible to agree on a schedule that did not alter the date previously set for an oral hearing, if one is requested. Counsel for both parties indicated it would be possible. The panel authorized the parties to submit a joint request for alteration of the schedule within one week of the conference call. The parties filed a Joint Motion to Modify Schedule on May 15, 2018. Paper 38 (“Joint Motion”).

Patent Owner, Trans Technologies Company, previously filed its Patent Owner Response on February 26, 2018 (Papers 10 & 11), with authorized corrections filed on March 9 (Papers 14 & 15) and April 16 (Paper 34). The parties’ Joint Motion proposes Due Date 1B for Patent Owner to file a revised response to the Petition (“Revised Patent Owner Response”). Joint Motion 3. Patent Owner did not file a motion to amend

any claims challenged in this proceeding, and the Joint Motion provides that Patent Owner will not be filing such a motion. *Id.* at 3, n.2. The Joint Motion presents the parties' agreement that, in the Revised Patent Owner Response, Patent Owner may: (1) add arguments directed to Grounds 2 and 3, (2) modify its constitutionality arguments in view of the Supreme Court's decision in *Oil States Energy Services, LLC v. Greene's Energy Group, LLC*, 138 S. Ct. 1365 (2018), (3) remove or reduce language from the corrected Patent Owner Response in order to achieve a word count limit of 14,000 words in the Revised Patent Owner Response. Joint Motion 4.

The parties further agree:

Patent Owner agrees that it will not introduce new arguments specific to Ground 1. Patent Owner may submit a supplemental expert declaration under 10 pages limited to Grounds 2 and 3 from previous declarants Mr. McCann or Dr. Parnell. Patent Owner will not submit any other testimonial evidence. Patent Owner may submit new evidence in support of Grounds 2 and 3, but only in the form of publicly available documents relied upon by the supplemental declarant. Notwithstanding the stipulation, Petitioners reserve the right to object to additional evidence that could have been presented in the Patent Owner's previous response to the petition.

*Id.* The Joint Motion also reflects the parties' agreement regarding supplemental deposition discovery as follows: "Patent Owner agrees to make available for supplemental deposition testimony previous declarants Mr. McCann and Dr. Parnell. The parties agree that the supplemental depositions will each be limited to three hours of testimony and limited to Grounds 2 and 3." *Id.* at 5. The Joint Motion proposes revised dates for Due Dates 2, 4, 5, and 6. *Id.* at 3.

Having reviewed the parties' proposed new schedule and agreements regarding the scope of Patent Owner's Revised Response and discovery, we

*grant* the parties' Joint Motion, except for the proposed date for the parties to request oral argument. By Due Date 4A set forth below, each party must file any request for oral argument (37 C.F.R. § 42.70(a)). Due Date 4B set forth below shall apply to any observations on cross-examination testimony of a reply witness and any motion to exclude evidence.

In addition, in an email sent May 2, 2018, Patent Owner requested that the Board expunge Exhibit 2049, stating that Exhibit 2049 is a duplicate of Exhibit 2013 and was filed inadvertently. Patent Owner stated that the parties met and conferred and Petitioners do not oppose the request. Exhibit 2049 shall be expunged.

#### ORDER

Accordingly, it is

ORDERED that by June 1, 2018 (Due Date 1B), Patent Owner may file a revised Patent Owner Response in accordance with the parties' Joint Motion and 37 C.F.R. § 42.120(a),

FURTHER ORDERED that Patent Owner will make available for supplemental deposition testimony previous declarants Mr. McCann and Dr. Parnell, and the supplemental depositions will each be limited to three hours of testimony and limited to Grounds 2 and 3, except as the parties may otherwise agree,

FURTHER ORDERED that Due Date 3 is moot,

FURTHER ORDERED that Due Dates 2, 4, 5, and 6 in the Scheduling Order are modified as follows:

Due Date 2	July 24, 2018
Due Date 4A	July 31, 2018

Case IPR2017-01510  
Patent 7,669,465 B2

Due Date 4B	August 13, 2018
Due Date 5	August 22, 2018
Due Date 6	August 29, 2018

FURTHER ORDERED that the parties may stipulate to different dates for Due Dates 1B, 2, 4B, and 5 (earlier or later, but no later than Due Date 6), in accordance with the terms of the Scheduling Order, and

FURTHER ORDERED that Exhibit 2049 shall be expunged.

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