

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

QUANTUM STREAM INC.,
Patent Owner.

Case IPR2017-01672
Patent 9,047,626 B2

Before BARRY L. GROSSMAN, BEVERLY M. BUNTING, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.05

INTRODUCTION

On April 27, 2018, counsel for Petitioner contacted the Board by e-mail to request a telephone conference call to discuss whether Patent Owner's failure to file a timely Patent Owner Response supports adjusting Due Dates 4 and 7 in the Scheduling Order (Paper 8). Petitioner stated in the April 27 e-mail that "Petitioner and Patent Owner have conferred, and Patent Owner does not oppose" modification of the Scheduling Order.

DISCUSSION

A conference call is not necessary to resolve this issue. Our Scheduling Order in this case set a due date of April 20, 2018 for Patent Owner's Response to the Petition. Paper 8, 8. No Response has been timely filed, nor has Patent Owner requested an extension of time to file the Response. We agree with Petitioner that Patent Owner's failure to file a timely Patent Owner Response supports adjustment of the Due Dates, and that Due Dates 2 and 3 are now moot and inapplicable. We disagree that Due Dates 5 and 6 are moot, because a party could file a motion to exclude without first objecting to the evidence in question, regardless of the likelihood of success of such a tactic. We therefore adjust Due Dates 5 and 6, as well as Due Dates 4 and 7, as shown below in the Order.

ORDER

It is ORDERED that Due Dates 4–7 are reset as follows:

DUE DATE 4 June 5, 2018
DUE DATE 5 June 19, 2018
DUE DATE 6 June 26, 2018
DUE DATE 7 To be determined; and

FURTHER ORDERED that if either party requests oral argument, the party shall initiate a joint conference call with the Board within one week of the filing of the request for oral argument.

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