

From: [Haag, Joseph](#)
To: [Trials](#); [Cavanaugh, David](#); [Anderson, Thomas](#); dcochran@jonesday.com; mwjohanson@jonesday.com; jmsauer@jonesday.com; dmaiorana@jonesday.com; ragraham@jonesday.com; jnightingale@jonesday.com
Subject: RE: IPR2018-01334
Date: Friday, February 11, 2022 10:09:56 AM

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Dear Honorable Board:

The Parties have met and conferred regarding a proposed procedural schedule for the remand from the Federal Circuit for the above-identified IPR. The Parties jointly propose the following procedure for remand.

Joint remand schedule proposal

The Parties propose that the scope of the briefing on remand be limited to (1) the broadest reasonable interpretation of the claim term “hardware buffer,” (2) the applicability of the broadest reasonable interpretation of “hardware buffer” to the asserted prior art disclosures, and (3) whether the Board can resolve the prior art challenge to the patentability of claims 16 and 17 despite the potential indefiniteness of the means-plus-function terms, along with whether these means-plus-function terms of claims 16 and 17 are indefinite.

The Parties propose the following schedule and page limits:

	Briefing Due Dates	Page Limit
Petitioner’s opening brief	6 weeks after authorization	20 pages
Patent Owner’s response brief	6 weeks after Petitioner’s opening brief	20 pages
Petitioner’s reply brief	4 weeks after Patent Owner’s response brief	8 pages
Patent Owner’s sur-reply brief	4 weeks after Petitioner’s reply brief	8 pages

Given the Federal Circuit’s opinion on the construction of “hardware buffer” and its applicability to the prior art, the Parties propose that (1) Petitioner may submit additional documentary and expert declaration evidence along its opening and reply briefs, (2) Patent Owner may submit additional documentary and expert declaration evidence along with its response brief, but not with its sur-reply brief, and (3) each party may depose any declarant who submits a declaration on behalf of the other party and must file the transcript as an exhibit with its next paper.

The Parties will be available to discuss the remand procedure on the scheduled conference call on February 17.

Respectfully submitted,

Joseph Haag

Joseph F. Haag | WilmerHale
2600 El Camino Real
Suite 400
Palo Alto, CA 94306 USA
+1 650 858 6032 (t)
+1 650 858 6100 (f)
joseph.haag@wilmerhale.com

Please consider the environment before printing this email.

This email message and any attachments are being sent by Wilmer Cutler Pickering Hale and Dorr LLP, are confidential, and may be privileged. If you are not the intended recipient, please notify us immediately—by replying to this message or by sending an email to postmaster@wilmerhale.com—and destroy all copies of this message and any attachments. Thank you.

For more information about WilmerHale, please visit us at <http://www.wilmerhale.com>.

From: Trials <Trials@USPTO.GOV>

Sent: Thursday, February 10, 2022 1:48 PM

To: Cavanaugh, David <David.Cavanaugh@wilmerhale.com>; Anderson, Thomas <Tom.Anderson@wilmerhale.com>; Haag, Joseph <Joseph.Haag@wilmerhale.com>; dcochran@jonesday.com; mwjohnson@jonesday.com; jmsauer@jonesday.com; dmaiorana@jonesday.com; ragraham@jonesday.com; jrnightingale@jonesday.com

Subject: IPR2018-01334

EXTERNAL SENDER

Counsel,

The Court of Appeals for the Federal Circuit has issued its decision on appeal in IPR2018-01334 and its mandate. The Board will hold a conference call with the parties at 3:30 PM ET on Thursday February 17, 2022, to discuss the remand. The Board will not provide a court reporter for the conference, but the parties are welcome to retain one if they would like a transcript to be entered into the record. On the call, the parties should be prepared to discuss procedures for the remand, including word or page limits for briefing and deadlines for briefing and, if necessary, discovery. The PTAB's Standard Operating Procedure 9 sets a goal of issuing a decision on remand within six months of the Federal Circuit's mandate, which issued on February 3, 2022. Thus, the parties should be mindful of this goal when considering proposed deadlines.

866-793-7136

Passcode 3245094#

Thank you,

Maria King

Deputy Chief Clerk for Trials
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
703-756-1288