

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMP PLUS, INC., dba ELCO LIGHTING,
Petitioner,

v.

DMF, INC.,
Patent Owner.

IPR2019-01094
Patent 9,964,266 B2

Before CHRISTOPHER L. CRUMBLY, JEFFREY W. ABRAHAM, and
DEBRA L. DENNETT, *Administrative Patent Judges*.

DENNETT, *Administrative Patent Judge*.

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

The Board received email correspondence from the parties concerning a dispute over re-scheduling the deposition of Patent Owner's testifying expert witness, Mr. Benya, and adjustments to the Scheduling Order. The Board held a conference call with the parties on June 10, 2020 to discuss the issues.

Patent Owner stated that for medical reasons Mr. Benya is unavailable for deposition on of June 15, 2020, a date set in our April 28, 2020 Order (Paper 36), entered following a prior scheduling dispute between the parties. Patent Owner assured us that Mr. Benya will be available for deposition on July 7, 2020, and proposed revising the remaining dates in the current Scheduling Order in accordance therewith. Petitioner agreed to the July 7 date for Mr. Benya's deposition and to moving Due Date 2 (Petitioner's Reply) to July 21, 2020, but objected to re-scheduling other Due Dates. The parties conferred and provided each side's proposed dates in an email on June 10, 2020. Ex. 3009.

Upon consideration, the Board determines that accepting Patent Owner's proposed dates is most appropriate in order to accommodate Mr. Benya's availability while also ensuring that the parties have sufficient time to prepare the remaining filings in this proceeding.. Accordingly, we adopt the schedule in the attached DUE DATE APPENDIX which supercedes the DUE DATE APPENDIX attached to the Scheduling Order issued November 22, 2019.

ORDER

It is

ORDERED that the deposition of James Benya take place on or about July 7, 2020;

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FURTHER ORDERED that the deposition of Eric Breitschneider, if requested by Patent Owner, take place on or about Aug. 4, 2020; and

FURTHER ORDERED that the DUE DATE APPENDIX attached to this Order supersedes the DUE DATE APPENDIX attached to the Scheduling Order issued November 22, 2019.

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DUE DATE APPENDIX

DUE DATE 2	July 7, 2020
Petitioner's reply to Patent Owner's response to petition	
Petitioner's opposition to motion to amend	
DUE DATE 3	August 18, 2020
Patent Owner's sur-reply to reply	
DUE DATE 4	August 19, 2020
Request for oral argument	
DUE DATE 5	August 20, 2020
Motion to exclude evidence	
DUE DATE 6	August 27, 2020
Opposition to motion to exclude	
Request for prehearing conference	
DUE DATE 7	September 3, 2020
Reply to opposition to motion to exclude	
DUE DATE 8	September 10, 2020
Oral argument (if requested)	

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