

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

FEDEX CORPORATION,  
Petitioner,

v.

FLECTERE LLC,  
Patent Owner.

---

IPR2020-00403  
Patent 6,415,284 B1

---

Before DAVID C. McKONE and STEPHEN E. BELISLE,  
*Administrative Patent Judges.*

BELISLE, *Administrative Patent Judge.*

REVISED SCHEDULING ORDER  
and  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

On January 13, 2020, FedEx Corporation (“Petitioner”) filed a Petition (Paper 1) to institute an *inter partes* review of claims 1–21 of U.S. Patent No. 6,415,284 B1 (Ex. 1001, “the ’284 patent”). On April 14, 2020, Flectere LLC (“Patent Owner”) waived filing of a preliminary response to the Petition. Paper 7. On June 26, 2020, the Board instituted an *inter partes* review as to all challenged claims of the ’284 patent on all grounds raised in the Petition (*see* Paper 8), and issued a Scheduling Order (Paper 9), which set the due date for Patent Owner’s response to the Petition for September 18, 2020 (Paper 9, “DUE DATE 1”). On September 16, 2020, via an email from Patent Owner’s counsel, Jonathan Szarzynski, to the Board, Patent Owner informed the Board that it “has elected to not file a response” to the Petition.

On September 24, 2020, pursuant to Section II.F of the Board’s Consolidated Trial Practice Guide<sup>1</sup> and the Scheduling Order in this case (Paper 9, 10), the Board held a teleconference with the parties to discuss the posture of this case and revision of due dates originally set in the Scheduling Order. During the call, Patent Owner stated that it does not intend to request adverse judgment (*see* Rule 42.73(b)), to cancel any challenged claims, or to otherwise abandon the contest to the claims. Patent Owner has not objected to any of Petitioner’s evidence and the time has passed to do so. Thus, Patent Owner does not have a basis to file a Motion to Exclude. In view of the foregoing, several filings authorized in the Scheduling Order have been rendered moot. In particular, as agreed by the parties, there is no present basis for additional briefing relating to the Petition, for briefing relating to

---

<sup>1</sup> Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

amendment of the '284 patent, or for briefing relating to motions to exclude evidence. Accordingly, the filings authorized by and associated with DUE DATES 2, 3, and 5–7 in our original June 26, 2020, Scheduling Order are no longer authorized, and these due dates are stricken as reflected in this Revised Scheduling Order (*see* Revised Due Date Appendix).

However, during the call, Patent Owner also stated that it may request oral argument in this case. We advised Patent Owner to consider Rule 42.70 concerning oral argument, which states: “A party may request oral argument *on an issue raised in a paper* at a time set by the Board. The request must be filed as a separate paper and must specify *the issues to be argued.*” 37 C.F.R. § 42.70 (emphases added); *see also* Paper 9, 10 (“Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.”). Because Patent Owner elected not to file a response to the Petition, and has not otherwise raised any issue in any paper filed in this case, we questioned Patent Owner as to what basis on which it may request oral argument. At the time of the call, Patent Owner was not prepared to respond. Petitioner requested that we reset DUE DATE 4 (deadline for requesting oral argument) to be two weeks from the date of the teleconference. Patent Owner requested that, if we reset DUE DATE 4, it should be reset for four weeks from the date of the teleconference.

In view of the foregoing, we revise our original Scheduling Order to change DUE DATE 4 (deadline for requesting oral argument) from February 12, 2021, to October 22, 2020. To the extent that either party files a request (or contingent request) for oral argument, the party’s request shall respond with particularity to the requirements of Rule 42.70, and identify with particularity the basis and supporting legal authority entitling the party

IPR2020-00403  
Patent 6,415,284

to oral argument on each proposed issue to be argued. In the meantime, this Revised Scheduling Order maintains DUE DATE 8 (oral argument) as set for March 30, 2021.

To the extent that our original Scheduling Order provides instructions that are not addressed in this Revised Scheduling Order, the original instructions remain in effect.

In consideration of the foregoing, it is hereby:

ORDERED that the filings authorized by and associated with DUE DATES 2, 3, and 5–7 in our original June 26, 2020, Scheduling Order are no longer authorized, and that these due dates are stricken as reflected in this Revised Scheduling Order;

FURTHER ORDERED that DUE DATE 4 (deadline for requesting oral argument) is modified to be October 22, 2020;

FURTHER ORDERED that, to the extent that either party files a request (or contingent request) for oral argument, the party's request shall respond with particularity to the requirements of 37 C.F.R. § 42.70, and identify with particularity the basis and supporting legal authority entitling the party to oral argument on each proposed issue to be argued; and

FURTHER ORDERED that DUE DATE 8 (oral argument) shall remain set for March 30, 2021.

IPR2020-00403  
Patent 6,415,284

REVISED DUE DATE APPENDIX

DUE DATE 4 ..... October 22, 2020

Request for oral argument (may not be extended by stipulation)

DUE DATE 8 ..... March 30, 2021

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.