

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC. ET AL.
Petitioner

v.

Patent of CUOZZO SPEED TECHNOLOGIES LLC
Patent Owner

Case IPR2012-00001 (JL)
Patent 6,778,074

Before MICHAEL P. TIERNEY, *Lead Administrative Patent Judge*, JAMESON LEE, and JOSIAH C. COCKS, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

SCHEDULING ORDER

A. DUE DATES

This order sets due dates for the parties to take action after institution of trial on the authorized grounds and claims. The parties may stipulate to different dates for DUE DATES 1 through 3 (earlier or later, but no later than DUE DATE 4). A

notice of the stipulation, specifically identifying the changed due dates, must be promptly filed. The parties may not stipulate to an extension of DUE DATES 4-7.

In stipulating to different times, the parties should consider the effect of the stipulation on times to object to evidence (37 C.F.R. § 42.64(b)(1)), to supplement evidence (37 C.F.R. § 42.64(b)(2)), to conduct cross-examination (37 C.F.R. § 42.53(d)(2)), and to file papers relying on the evidence and cross-examination testimony (see section B, below).

The parties are reminded that the Testimony Guidelines appended to the Trial Practice Guide, 77 Fed. Reg. 48756, 48772 (Aug. 14, 2012) (Appendix D), apply to this proceeding. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorney fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness.

1. DUE DATE 1

The patent owner may file—

- a. A response to the petition (37 C.F.R. § 42.120), and
- b. A motion to amend the patent (37 C.F.R. § 42.121).

Any such response or motion to amend by the patent owner must be filed by DUE DATE 1. If the patent owner elects not to file anything, the patent owner must initiate a joint conference call with the petitioner and the Board prior to DUE DATE 1.

2. DUE DATE 2

The petitioner may file a reply to the patent owner's response and an opposition to the patent owner's motion to amend. Any such filing must be made by DUE DATE 2.

3. DUE DATE 3

The patent owner may file a reply to the petitioner's opposition to patent owner's motion to amend. Any such filing must be made by DUE DATE 3.

4. DUE DATE 4

- a. The petitioner may file a motion for an observation on the cross-examination testimony of a reply witness. (See section C, below). Any such filing must be made by DUE DATE 4.
- b. Each party may file a motion to exclude evidence (37 C.F.R. § 42.64(c)) and a request for oral argument (37 C.F.R. § 42.70(a)). Any such filing must be made by DUE DATE 4.

5. DUE DATE 5

- a. The patent owner may file a reply to a petitioner's observation on cross-examination testimony. Any such filing must be made by DUE DATE 5.
- b. Each party may file an opposition to a motion to exclude evidence. Any such filing must be made by DUE DATE 5.

6. DUE DATE 6

Each party may file a reply to an opposition to a motion to exclude evidence. Any such filing must be made by DUE DATE 6.

7. DUE DATE 7

The oral argument (if requested by either party) is set for DUE DATE 7.

B. CROSS-EXAMINATION

Except as the parties might otherwise agree, for each due date —

1. Cross-examination begins after any supplemental evidence is due. 37 C.F.R. § 42.53(d)(2).
2. Cross-examination ends no later than a week before the filing date for any paper in which the cross-examination testimony is expected to be used. *Id.*

C. MOTION FOR OBSERVATION ON CROSS-EXAMINATION

A motion for observation on cross-examination provides the petitioner with a mechanism to draw the Board's attention to relevant cross-examination testimony of a reply witness, since no further substantive paper is permitted after the reply. *See* Office Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). The observation must be a concise statement of the relevance of precisely identified testimony to a precisely identified argument or portion of an exhibit. Each observation should not exceed a single, short paragraph. The patent owner may respond to the observation. Any response must be equally concise and specific.

DUE DATE APPENDIX

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| DUE DATE 1..... | March 11, 2013 |
| Patent owner’s response to the petition | |
| Patent owner’s motion to amend the patent | |
| DUE DATE 2..... | May 21, 2013 |
| Petitioner’s reply to Patent Owner’s response to petition | |
| Petitioner’s opposition to Patent Owner’s motion to amend | |
| DUE DATE 3..... | June 21, 2013 |
| Patent Owner’s reply to Petitioner’s opposition to Patent Owner’s motion to amend | |
| DUE DATE 4..... | July 12, 2013 |
| Petitioner’s motion for observation regarding cross-examination of reply witness | |
| Motion to exclude evidence | |
| Request for oral argument | |
| DUE DATE 5..... | July 26, 2013 |
| Patent Owner’s response to observation | |
| Opposition to motion to exclude evidence | |
| DUE DATE 6..... | August 2, 2013 |
| Reply to opposition to motion to exclude evidence | |

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DUE DATE 7..... August 16, 2013

Oral argument (if requested)

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