

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

HULU, LLC,  
Petitioner,

v.

SOUND VIEW INNOVATIONS, LLC,  
Patent Owner.

---

Case IPR2018-01039  
Patent 5,608,062

---

Before ANDREI IANCU, *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office*,  
DREW HIRSHFELD, *Commissioner for Patents*, and SCOTT R. BOALICK,  
*Chief Administrative Patent Judge*.

PER CURIAM.

ORDER

Hulu, LLC (“Petitioner”) requests rehearing of the Patent Trial and Appeal Board (“Board”) decision denying institution of *inter partes* review. Paper 13, 1 (citing Paper 12). Specifically, Petitioner argues that the decision denying institution conflicts with other Board decisions involving the public availability of an asserted “printed publication.” *Id.* at 1–3.

Pursuant to Standard Operating Procedure 2 (SOP2), the Precedential Opinion Panel (“POP”) has determined that this case warrants review. A POP review is appropriate to address the following issue:

What is required for a petitioner to establish that an asserted reference qualifies as “printed publication” at the institution stage?

Accordingly, a POP review of Petitioner’s request for rehearing of the Board’s decision denying institution of *inter partes* review is ordered. Standard Operating Procedure 2 (“SOP 2”),<sup>1</sup> 3–7.

Petitioner and Sound View Innovations, LLC (“Patent Owner”) are authorized to simultaneously submit additional briefing, limited to the issue identified above, of no more than fifteen (15) pages each, due on May 1, 2019. The parties are instructed to discuss whether an oral hearing is necessary within the additional briefing.

Additionally, any *amicus curiae* are authorized to submit a brief to [trials@uspto.gov](mailto:trials@uspto.gov), limited to the issue identified above, of no more than fifteen (15) pages and due on May 1, 2019. The *amicus curiae* briefs will be entered into the record by the Board.

Petitioner and Patent Owner are further authorized to file simultaneous responses to Patent Owner’s and Petitioner’s additional briefing, respectively, of

---

<sup>1</sup> Available at <https://go.usa.gov/xPMqx>.

IPR2018-01039  
Patent 5,806,062

no more than ten (10) pages each, due on May 15, 2019. The parties also may respond to the *amicus curiae* briefing in their responses.

Accordingly, based on the foregoing and pursuant to SOP 2, it is:

ORDERED that Petitioner's Request for Rehearing of the Board's Decision Denying Institution is submitted for POP review, on the issue and schedule identified above; and

FURTHER ORDERED that, unless otherwise delegated, the POP will maintain authority over all issues in this case.

IPR2018-01039  
Patent 5,806,062

For PETITIONER:

David L. Cavanaugh  
David.Cavanaugh@wilmerhale.com

Scott Bertulli  
Scott.Bertulli@wilmerhale.com

Evelyn C. Mak  
Evelyn.Mak@wilmerhale.com

For PATENT OWNER:

Kenneth J. Weatherwax  
weatherwax@lowensteinweatherwax.com

Edward Hsieh  
hsieh@lowensteinweatherwax.com

Parham Hendifar  
hendifar@lowensteinweatherwax.com

Nathan Lowenstein  
lowenstein@lowensteinweatherwax.com