

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper ____

Filed by: @_____
Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

@

Junior Party
(application or patent number),

v.

@

Senior Party
(application or patent number).

Patent Interference No. 104,@

**ORDER
FILING OF PRELIMINARY MOTIONS AND STATEMENTS**

A. Conference call

A @ hearing/telephone conference call was held on
@_____ @__, 19@__, at approximately @__:__ a/p.m.,
involving:

1. @_____, Esq., counsel for
@_____;
2. @_____, Esq., counsel for
@_____;
3. @_____, Esq., for
@_____;
4. @_____, Esq., counsel for
@_____; and
5. @_____, Administrative Patent
Judge.

B. Relevant discussion during conference call

The principal purpose of the conference call was to set times for taking action during the preliminary motion phase of the interference.

@insert any relevant discussion not otherwise covered herein.

C. Time periods associated with preliminary motions

In accordance with discussion during the @hearing/telephone conference call, the following "Time Periods" are established in this interference:

1. TIME PERIOD 1

The time for filing and serving preliminary motions (37 CFR § 1.636(a)) is set to expire on @_____. If no party files a preliminary motion, the parties should place a conference call to the administrative patent judge so that a time for taking testimony or other appropriate action may be set.

Attention is directed to Paragraph 26(f) of the NOTICE DECLARING INTERFERENCE (Paper 1) if a request is made for leave to take testimony to support a preliminary motion.

Attention is directed to Paragraph 26(g) of the NOTICE DECLARING INTERFERENCE (Paper 1) with respect to any preliminary motion for judgment (37 CFR § 1.633(a)) based on inequitable conduct and/or fraud.

2. TIME PERIOD 2

The time for filing and serving preliminary motions pursuant to 37 CFR § 1.633(i) and (j) responsive to a preliminary motion filed by an opponent (37 CFR § 1.636(b)) is set to expire on @_____.

3. TIME PERIOD 3

The time for filing and serving oppositions to all preliminary motions, including preliminary motions filed pursuant to 37 CFR § 1.633(i) and (j), is set to expire on @_____.

4. TIME PERIOD 4

The time for filing replies to all oppositions is set to expire on @_____.

5. TIME PERIOD 5

The time for filing:

- a. if a party desires a hearing on preliminary motions, a request for a hearing;
- b. motions to suppress evidence relied upon by an opponent in connection with preliminary motions (compare 37 CFR § 1.656(h)); and
- c. observations by a cross-examining party with respect to cross-examination of an opponent's affiants following filing of replies

is set to expire on @_____.

6. TIME PERIOD 6

The time for filing:

- a. oppositions to an opponent's motion to suppress and
- b. a response to observations by a cross-examining party with respect to cross-examination of an opponent's affiants following filing of replies

is set to expire on @_____.

7. TIME PERIOD 7

The time for filing replies to oppositions to motions to suppress is set to expire on @_____.

The parties are authorized to stipulate different times (earlier or later) for TIME PERIODS 1 through 6, provided, a notice is filed with the board as soon as practical after any agreement is reached. The notice should be in the form of a photostatic copy of the order setting dates with old dates crossed out and new dates inserted by hand.¹ The parties may not stipulate an extension of TIME PERIOD 7.

D. Deposition transcripts

¹ The purpose of this requirement is to make it easy for personnel at the board to determine the changes in dates agreed to by the parties.

Transcripts of depositions of cross-examination and/or depositions taken under 35 U.S.C. § 24 shall be served, but not filed until the exhibits are filed.

E. Time and manner of filing exhibits and additional copies of preliminary motions, opposition and replies

An exhibit, including an affidavit, relied upon in connection with preliminary motions, oppositions, and replies shall be served (but not filed) with the preliminary motion, opposition, reply or affidavit in which the exhibit is first mentioned.

TIME PERIOD 8

On or before @_____ ,

1. An original and three copies of each exhibit, including affidavits, and deposition transcript should be filed with the board. Exhibits should be filed in an accordion folder, box or other folder containing all exhibits in numerical order (the copies of exhibits should be submitted in like fashion in an accordion type or other folders).

2. Three copies of preliminary motions, oppositions and replies previously filed should be filed with the board, with each copy of each motion, its opposition and its reply any observations and any response to observations being filed in a separate folder.

3. Any ZIP® disk and/or CD-ROM which a party elects to file.

F. Preliminary statements

The time for filing (but not serving) preliminary statements (37 CFR § 1.621(a), see also 37 CFR § 1.627(a)) is the same as the time for complying with TIME PERIOD 1.

The time for filing the notice required by 37 CFR § 1.621(b) is the same as the time for complying with TIME PERIOD 1.

A junior party who does not file a preliminary statement shall not have access to the preliminary statement of any other party. 37 CFR § 1.631(b). Without further order of the board, within one (1) week after the date for filing preliminary statements, a copy of a party's preliminary statement shall be served on each opponent who served a notice under 37 CFR § 1.621(b).

@ _____
Administrative Patent Judge

Date: _____
Arlington, VA

ORDERPM4
Revised April 1999
(replaces ORDERPM3)