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Paper No. 11
Date Entered: October 31, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IGB AUTOMOTIVE LTD. and I.G. BAUERHIN GMBH,
Petitioner,

v.

GENTHERM GMBH,
Patent Owner.

Case IPR2014-00666
Patent 7,229,129 B2

Before JOSIAH C. COCKS, BENJAMIN D. M. WOOD, and RICHARD E. RICE, *Administrative Patent Judges.*

COCKS, *Administrative Patent Judge.*

INITIAL CONFERENCE SUMMARY AND ORDER

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

1. Introduction

On October 30, 2014, an initial conference call was conducted between respective counsel for the parties and Judges Cocks, Wood, and Rice. The purpose of the call was to determine if the parties have any issues concerning the Scheduling Order (Paper 8), and to discuss any motions contemplated by the parties.

2. Scheduling Order

Neither party indicated any issues with the Scheduling Order. The parties are reminded that, without obtaining prior authorization from the Board, they may stipulate to different dates for DATES 1–5[1] by filing an appropriate notice with the Board.

3. Protective Order

The parties have not discussed a protective order at this time. No protective order has been entered. Should circumstances change, the parties are reminded of the requirement for a protective order when filing a Motion to Seal. 37 C.F.R. § 42.54. If the parties have agreed to the Standing Default Protective Order, 77 Fed. Reg. 48,756, App. B (Aug 14, 2012), they should file a signed copy of the proposed protective order with the motion to seal. If the parties choose to propose a protective order other than or departing from the default Standing Protective Order, they must submit a joint, proposed protective order, accompanied by a red-lined version based on the default protective order in Appendix B to the Board's Office Patent Trial Practice Guide. *See id.* at 48,769.

[1] The parties may not stipulate to changes for any other DUE DATE.

4. Discovery

The parties are reminded of the discovery provisions of 37 C.F.R. §§ 42.51–52 and Office Trial Practice Guide. *See* 77 Fed. Reg. at 48,761–62. Discovery requests and objections are not to be filed with the Board without prior authorization. The parties may request a conference with the Board if the parties are unable to resolve discovery issues between them. A motion to exclude, which does not require Board authorization, must be filed to preserve any objection. *See* 37 C.F.R. § 37.64, Office Trial Practice Guide, 77 Fed. Reg. at 48,767. There are no discovery issues pending at this time.

Each party may depose experts and affiants supporting the opposing party. The parties are reminded of the provisions for taking testimony found at 37 C.F.R. § 42.53 and the Office Trial Practice Guide at 77 Fed. Reg. at 48,772, App. D.

5. Motions

The parties are reminded that, except as otherwise provided in the Rules, Board authorization is required before filing a motion. 37 C.F.R. § 42.20(b). A party seeking to file a motion should request a conference to obtain authorization to file the motion. Patent Owner filed a list of proposed motions. Paper 9.

During the call, the Patent Owner represented that its proposed motions were essentially "placeholders," rather than motions that are contemplated actively. The panel advised the parties that such "placeholders" for motions that parties may seek to file at a later time are not necessary. As noted above, when a party desires to file a motion, it should obtain authorization from the panel to file such motion, with the exception of

motions for which prior authorization is not practical (*see* Office Trial Practice Guide at 77 Fed. Reg. at 48,762).

No additional motions are authorized in this proceeding at this time.

6. Motion to Amend

Although Patent Owner may file one motion to amend the patent by cancelling or substituting claims without Board authorization, Patent Owner must confer with the Board before filing a motion to amend. 37 C.F.R. § 42. 121(a). During the call, Patent Owner indicated that it may file a motion to amend, but was not prepared yet to discuss such a motion with the panel. Should Patent Owner intend to file such a motion, it should arrange a conference call with the panel and opposing counsel at least one week before DUE DATE 1 in order to satisfy the conferral requirement of 37 C.F.R. § 42.121(a).

7. Settlement

The parties stated that there is no immediate prospect of settlement that will affect the conduct of this proceeding.

8. Order

It is ORDERED that trial will proceed in this *inter partes* proceeding according to the Scheduling Order (Paper 8).

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