

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC. and YOUTUBE, LLC,
Petitioners,

v.

PERSONALWEB TECHNOLOGIES, LLC and
LEVEL 3 COMMUNICATIONS, LLC,
Patent Owners.

Cases IPR2014-00977 (Patent 6,415,280 B1)
IPR2014-00978 (Patent 7,802,310 B2)
IPR2014-00979 (Patent 6,928,442 B2)
PR2014-00980 (Patent 5,978,791)¹

Before JONI Y. CHANG and MICHAEL R. ZECHER,
Administrative Patent Judges.

CHANG, *Administrative Patent Judge.*

ORDER
Conduct of Proceedings
37 C.F.R. § 42.5

¹ This Order addresses the same issues in all of the above-identified cases. Therefore, we issue one Order to be filed in all cases. The parties, however, are not authorized to use this style heading in subsequent papers.

IPR2014-00977 (Patent 6,415,280 B1), IPR2014-00978 (Patent 7,802,310 B2), IPR2014-00979 (Patent 6,928,442 B2), PR2014-00980 (Patent 5,978,791)

On October 20, 2014, a conference call was held between respective counsel for the parties and Judges Chang and Zecher. As an initial matter, we notified the parties that the papers² filed by Petitioners Google Inc. and YouTube, LLC (collectively “Google”), on October 17, 2014, in the above-identified proceedings (“the Google proceedings”), have been *expunged*, because Google did not seek or have prior authorization before filing the papers. *See* 37 C.F.R. § 42.7(a).

During the conference call, Google requested leave to file an opposition to each of the Motions to Terminate that were filed jointly by Rackspace US, Inc. and Rackspace Hosting, Inc. (collectively, “Rackspace”) and Patent Owners PersonalWeb Technologies, LLC and Level 3 Communications (collectively, “PersonalWeb”) in IPR2014-00057, IPR2014-00059, IPR2014-00062, and IPR2014-00066 (“the Rackspace *inter partes* reviews”). Google argued that the termination of the Rackspace *inter partes* reviews would impact the related district court proceedings that are stayed in light of those *inter partes* reviews and other related *inter partes* reviews.³ Google further alleged that the termination would prejudice Google, who has

² IPR2014-00977, Paper 8; IPR2014-00978, Paper 9; IPR2014-00979, Paper 8; IPR2014-00980, Paper 8.

³ The other related *inter partes* reviews include: IPR2013-00082, IPR2013-00083, IPR2013-00084, IPR2013-00085, IPR2013-00086, and IPR2013-00087 filed by EMC Corporation and VMWare, Inc., as well as IPR2013-00596 filed by Apple, Inc.

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filed a Motion for Joinder in each of the Google proceedings, seeking to join its proceedings with the Rackspace *inter partes* reviews.⁴ Paper 3.⁵

PersonalWeb opposed, arguing that Google is not a party to the Rackspace *inter partes* reviews and, therefore, authorizing Google to file oppositions to the Joint Motions to Terminate the Rackspace *inter partes* reviews would prejudice PersonalWeb. PersonalWeb further noted that Google's Motions for Joinder were not filed timely in accordance with 37 C.F.R. § 42.122(b).

Upon consideration of the parties' contentions, we are not persuaded by Google's arguments. Rather, we agree with PersonalWeb that Google is not a party to the Rackspace *inter partes* reviews and, in light of the circumstances, authorizing Google to file additional briefing at this stage of the proceedings would prejudice PersonalWeb. Google had the opportunity to file *timely* its own Petitions for *inter partes* review. Moreover, in its Motions for Joinder, Google already has briefed us on the issues related to the termination of the Rackspace *inter partes* reviews. *See, e.g.*, Paper 3, 1, 3–5. Additional briefing from Google on those issues essentially would amount to either supplemental briefing to its Motions for Joinder or a Reply to PersonalWeb's Oppositions to the Motions for Joinder.

We further observe that additional briefing on the issues related to the termination of the Rackspace *inter partes* reviews is not necessary. The parties

⁴ Specifically, Google seeks to join IPR2014-00977 with IPR2014-00059, IPR2014-00978 with IPR2014-00062, IPR2014-00979 with IPR2014-00066, and IPR2014-00980 with IPR2014-00057.

⁵ For the purpose of clarity and expediency, we treat IPR2014-00977 as representative, and all citations are to IPR2014-00977 unless otherwise noted.

IPR2014-00977 (Patent 6,415,280 B1), IPR2014-00978 (Patent 7,802,310 B2), IPR2014-00979 (Patent 6,928,442 B2), PR2014-00980 (Patent 5,978,791)

to the Rackspace *inter partes* review—Rackspace and PersonalWeb—already provided sufficient information, including the status of the related district court proceedings, in their Joint Motions to Terminate. *See, e.g.*, IPR2014-00057, Paper 34, 6–7. When we decide whether to grant the Joint Motions to Terminate the Rackspace *inter partes* reviews, we will be mindful of the potential impact of the terminations on those district court proceedings, as well as balance the potential impact with the strong public policy reasons that favor settlement between the parties to a proceeding. *See Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012).

Accordingly, it is:

ORDERED that the following unauthorized papers filed on October 17, 2014, in the Google proceedings have been expunged: IPR2014-00977, Paper 8; IPR2014-00978, Paper 9; IPR2014-00979, Paper 8; IPR2014-00980, Paper 8; and

FURTHER ORDERED that Google’s request for leave to file an opposition to each of the Joint Motions to Terminate filed in the Rackspace *inter partes* reviews is *denied*.

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IPR2014-00979 (Patent 6,928,442 B2), PR2014-00980 (Patent 5,978,791)

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