

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

HALL DATA SYNC TECHNOLOGIES LLC,
Patent Owner.

Case IPR2015-00874
Patent 7,685,506 B2

Before JUSTIN BUSCH, SHERIDAN K. SNEDDEN, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner, Unified Patents Inc., filed a Petition to institute an *inter partes* review of claims 1–6, 8, 9, 12, 13, 15–17, and 19 (“the challenged claims”) of U.S. Patent No. 7,685,506 B2 (“the ’506 patent”). Paper 1 (“Pet.”). Patent Owner, Hall Data Sync Technologies LLC, filed a

Preliminary Response pursuant to 35 U.S.C. § 313. Paper 6 (“Prelim. Resp.”).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). Upon consideration of the Petition and the Preliminary Response, and for the reasons explained below, we determine that the information presented shows a reasonable likelihood that Petitioner would prevail with respect to at least one claim. *See* 35 U.S.C. § 314(a). Accordingly, we institute an *inter partes* review.

A. Related Matters

The ’506 patent is involved in various district court proceedings in the Eastern District of Texas. Pet. 1; Paper 5, 3.

B. The Asserted Grounds

Petitioner identifies the following as asserted grounds of unpatentability:

References	Basis	Claims Challenged
Everson et al.,(Ex. 1003) ¹	§ 102(b) ²	1–6, 8, 9, 12, 15–17, and 19
Malpani (Ex. 1002) ³	§ 102(b)	1–6, 8, 9, 12, 13, and 15

¹ U.S. Patent No. 5,261,094, Oct. 15, 2002.

² The Leahy-Smith America Invents Act (“AIA”), Pub.L. No. 112-29, took effect on March 18, 2013. Because the application from which the ’506 patent issued was filed before that date, our citations to Title 35 are to its pre-AIA version.

³ A. Malpani & D. Agarwal, *Efficient Information Dissemination in Computer Networks*, PROCEEDINGS OF THE 14TH CONFERENCE ON LOCAL COMPUTER NETWORKS, 202–211 (1989).

References	Basis	Claims Challenged
Malpani	§ 103(a)	16, 17, and 19

C. Real Party-in-Interest

Patent Owner alleges that Google, Inc. (“Google”) is the real party-in-interest and that “Petitioner is nothing more than a surrogate for at least Google.” Prelim. Resp. 11. Patent Owner asserts that, because Petitioner did not name the real party-in-interest, Petitioner has no standing in this proceeding. *Id.* Patent Owner argues that the Petition should be dismissed because the Petition fails to identify all real parties-in-interest, as required by 35 U.S.C. § 312(a)(2). *Id.* at 12.

A petition for *inter partes* review may be considered only if, among other requirements, the petition identifies all real parties-in-interest. 35 U.S.C. § 312(a)(2); *see also* 37 C.F.R. § 42.8(b). “Whether a party who is not a named participant in a given proceeding nonetheless constitutes a ‘real party-in-interest’ or ‘privy’ to that proceeding is a highly fact-dependent question.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,759 (Aug. 14, 2012) (citation omitted). The Office Patent Trial Practice Guide provides guidance regarding factors to consider in determining whether a party is a real party-in-interest. Considerations may include whether a non-party exercises control over a petitioner’s participation in the proceeding or whether a non-party is funding the proceeding or directing the proceedings. 77 Fed. Reg. at 48,759-60. Patent Owner notes various facts, including two Internet articles regarding Google’s relationship with Petitioner, and concludes that “[b]ased on information acquired to date, Unified Patents, Inc. has an established

protocol with at least Google” regarding filing and prosecution of petitions. Prelim. Resp. 11. Patent Owner alleges the timing of events in this proceeding and those in a district court proceeding support its conclusion. *Id.* at 11–12. Patent Owner also asserts “Google admits that it is notified as soon as the [petition to institute] the IPR is filed and controls the continuation thereof,” but provides no evidence of that assertion. Prelim. Resp. 12. We are not persuaded that Patent Owner’s arguments demonstrate persuasively that Google is a principal of Unified, that Google has any control over the instant proceeding, or that Google is funding the instant proceeding. Therefore, on this record, Patent Owner’s proffered evidence does not support its conclusion that Google is the real party-in interest for the purposes of 35 U.S.C. § 312(a)(2).

D. The ’506 Patent

In a conference call held between the parties and the Board, both parties stated that the ’506 patent has expired. Ex. 1009, 7:9–13; *see also* Prelim. Resp. 6. The claims of the ’506 patent are directed to systems and methods for synchronizing data between databases. Ex. 1001, Abs., 11:21–14:28. Specifically, the ’506 patent purports to be “effective for taking a plurality of dis[pe]rsed databases and synchronizing these databases with other databases associated therewith.” *Id.* at 9:42–44. The ’506 patent discloses an Information Transfer Module that provides for the synchronization of data between offices, including offices in a hierarchy, where each office at a lower level has a parent to child relationship with an office at the next higher level. *Id.* at 7:7–9:50. The example provided by the ’506 patent includes a market office (parent) and all sales offices (children)

that report back to that market office and, at the next level of abstraction, a regional office (parent) and all market offices (children) that report back to that regional office. *Id.* at 7:15–52; Fig. 6. Thus, an office may serve as a child in some scenarios and a parent in others. *Id.* at 7:58–62.

The '506 patent further describes a process for data transfer from a child to a parent (*id.* at 7:57–9:26) and a process for data transfer from a parent to its children (*id.* at 9:27–50). The child to parent data transfer description provides a “typical structure for each data table,” including “Last Modified,” “Last Modified By [user],” and “Last Modified By Site,” fields. *Id.* at 8:6–20. When a record is created or modified, those three fields are updated with the appropriate information (i.e., the time of modification, the user who made the modification, and the site where the modification was made). *Id.* at 8:24–41, 8:50–52. Deleted records are stored in a separate table that includes a “Last Modified by Site” field. *Id.* at 8:53–57. At a predetermined time, the child office creates a redundant database of each record that was modified or deleted since the prior synchronization and transfers that database to the parent office. *Id.* at 8:57–9:7. Upon receipt of the information, the parent office sends the child office a confirmation message, at which point the child office may purge the table of deleted records and update its time of last synchronization to the current time. *Id.* at 9:8–14. The parent office subsequently takes the updates from all of its children offices and updates its database. *Id.* at 9:20–26.

With respect to data transfers from a parent to a child, the '506 patent describes that a separate redundant database is kept for each of a parent's children, discarding changes for a particular redundant database that were made by that respective child office (using the “Last Modified By Site”

field). *Id.* at 9:27–36. The parent then transfers each redundant database to its respective child, where the child may update its database using the transferred information. *Id.* at 9:36–38.

E. The Challenged Claims

Petitioner challenges claims 1–6, 8, 9, 12, 13, 15–17, and 19. Pet. 3–4. Claims 1, 3, and 16 are independent. Claim 1 is illustrative and reproduced below:

1. A method for synchronizing data in data fields between a plurality of first databases in communication with a second database after at least a portion of the data in any one of the plurality of first databases has been altered by addition, change, deletion or replacement of a portion thereof, the second database having a replica of data stored in the first database of the plurality of first databases, the method comprising:

comparing a modification identification, wherein the modification identification includes a modification field associated with the data in one of the plurality of first databases to a modification identification associated with a prior synchronization;

identifying an altered portion of the data that has the modification identification subsequent to the prior synchronization modification identification as a result of being altered;

transferring only the altered portion of the data from the first database of the one of the plurality of first databases to the second database;

replacing the data in the second database corresponding to the altered portion of the data;

wherein transferring only the altered portion of the data further includes;

receiving a confirmation message at the one of the plurality of first databases that transferred the altered portion to the second database that the altered portion is received; and

replacing the data stored in each one of the other plurality of first databases to correspond with the portion of the data altered in the one of the plurality of first databases.

II. ANALYSIS

A. *Claim Construction*

When interpreting claims of an expired patent, our analysis is similar to that of a district court. *In re Rambus, Inc.*, 694 F.3d 42, 46 (Fed. Cir. 2012). Specifically, claim terms are given their ordinary and customary meaning, as would be understood by a person of ordinary skill in the art, at the time of the invention, in light of the language of the claims, the specification, and the prosecution history of record. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313–1317 (Fed. Cir. 2005) (en banc). However, there is no presumption of validity, and we do not apply a rule of construction with an aim to preserve the validity of claims.

Petitioner proposes an express construction for four terms, “database,” “central processing unit,” “modification identification,” and “modification [identification] field.” Pet. 7. Petitioner argues its proposed constructions are the plain meaning of those terms. *Id.* at 8. Patent Owner does not propose an express construction for any term. Patent Owner points out that the ’506 patent has expired and Petitioner incorrectly applied the broadest reasonable interpretation. Prelim. Resp. 6–8. For purposes of this decision, we briefly discuss “modification identification,” “modification field,” and “modification identification field.”

No issue in this Decision, requires explicit construction of “database” or “central processing unit.” *See, e.g., Wellman, Inc. v. Eastman Chem. Co.*, 642 F.3d 1355, 1361 (Fed. Cir. 2011) (“[C]laim terms need only be construed ‘to the extent necessary to resolve the controversy.’”) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)). Accordingly, for purposes of this Decision, we do not provide explicit constructions for either of those terms.

Independent claims 1, 3, and 16 recite a “modification identification.” Ex. 1001, 11:20–12:11, 13:5–29. Specifically, the claims require comparing a modification identification to a modification identification of a prior synchronization. *Id.* Claims 1, 3, and 16 further recite that “the modification identification includes a modification field associated with the data.” *Id.* Claims 4 and 5, which depend ultimately from claim 3, recite a “modification identification field,” apparently referring back to the “modification field” recited in claim 3. Specifically, claim 4 recites “the at least one modification identification field,” but there is no prior recitation of “at least one modification identification field” or even “a modification identification field.” Claim 5, which depends directly from claim 4, recites “the modification identification field further comprises . . .,” but, again, there is no prior recitation of “a modification identification field.” Based on the context of the claims, we find the only reasonable way to interpret both “the at least one modification identification field” and “the modification

identification field,” recited in claims 4 and 5, respectively, is to construe⁴ them as “the modification field,” recited in claim 3.

As pointed out by Petitioner, the terms modification identification, modification field, and modification identification field do not appear in the specification of the ’506 patent. Pet. 9–11. Petitioner argues that there are “only three fields in the table at 8:12-20 that have anything to do with modifications,” and, therefore, modification identification “refer[s] to any or all of those fields.” *Id.* at 10. Petitioner points out that an example of one of the three referenced fields, “Last Modified,” is a timestamp. *Id.* Petitioner concludes that modification identification should be construed to mean “any information related to a modification,” and modification field⁵ should be construed to mean “information included in the modification identification.” Pet. 10–11.

Upon review of the claims and specification of the ’506 patent, the closest the specification of the ’506 patent comes to providing guidance regarding the recited “modification” terms is via its disclosure of an exemplary data structure that includes the fields “Last Modified,” “Last Modified By,” and “Last Modified By Site,” and the discussion of those fields. *See* Ex. 1001, 8:4–9:50. Ex. 1008, 6, 17. That is the same section

⁴ *Novo Indus., L.P. v. Micro Molds Corp.*, 350 F.3d 1348, 1357 (Fed. Cir. 2003) (correction of patent is appropriate “only if (1) the correction is not subject to reasonable debate based on consideration of the claim language and the specification and (2) the prosecution history does not suggest a different interpretation of the claims.”).

⁵ Petitioner argues an ordinarily skilled artisan would have understood the recitation in claim 5 to “the modification identification field” to mean “modification field.” Pet. 10. As previously discussed, we agree.

of the specification that both the applicant and the Examiner pointed to during prosecution regarding the addition of the limitations including the modification terms. Ex. 1008, 6, 17. Neither the applicant nor the Examiner, however, provided any details regarding the specific portion of the specification provided support for the recited modification terms. *See id.*

In reviewing the record, we find nothing to persuade us that the proper construction of modification identification or modification field is narrower than the plain and ordinary meaning gleaned from reviewing the claims in light of the specification, viewed through the eyes of an ordinarily skilled artisan at the time of filing of the original application to which the '506 patent claims priority. Therefore, based on this record, our preliminary construction of modification identification is “information identifying that data has been modified,” and our preliminary construction of modification field is “a field in a database indicating that an associated record has been modified.”

B. Anticipation of Claims 1–6, 8, 9, 12, 15–17, and 19 by Everson

1. Everson (Ex. 1003)

Everson describes a system and method for replicating changes to distributed databases. Ex. 1001, Abs. Everson describes collector nodes that initiate a data synchronization process from a collectee node. *Id.* The collectee node determines what changes have been made to its database since the last communication with the collector node and sends the updated data to the collector node, which subsequently updates its copy of the database. *Id.* Everson discloses that any of various known network configurations (e.g., hierarchical, star, and peer network configurations) may

be used with the disclosed synchronization system and method. *Id.* at 2:21–43, Figs. 1A–1C. Everson emphasizes that, “[r]egardless of the type of network, it is often necessary for all of the processors or nodes to contain identical information in their databases.” *Id.* at 2:44–46. Everson explains that a node in a network may serve as both a collectee node with respect to a first node and as a collector node with respect to a second node. *Id.* at 2:62–66; *see also id.*, Fig. 2. Everson uses multiple tables that include timestamps to track the last synchronization between two nodes and to determine when a collector node should request an update from a collectee node. *Id.* at 3:7–49; *see also id.*, Fig. 3. The collectee node executes a query to determine the updated entries, stores those entries in a cursor, and sends the updated entry data to the collector node, which receives the data and updates its database. *Id.* at 3:50–66; *see also id.*, Figs. 4–6.

2. *Anticipation Challenge*

Petitioner asserts that the subject matter of claims 1–6, 8, 9, 12, 15–17, and 19 is anticipated by Everson under 35 U.S.C. § 102(b). Pet. 19–38. Petitioner provides a limitation-by-limitation analysis, quoting portions of Everson that Petitioner alleges disclose each limitation and including portions of testimony from the Declaration of Dr. Norman Hutchinson (Ex. 1006). *Id.*

We have reviewed the Petition, the Preliminary Response, and the evidence of record, and we determine Petitioner has demonstrated a reasonable likelihood of prevailing in establishing that claims 1–6, 8, 9, 12, 15–17, and 19 are unpatentable as anticipated by Everson. In its preliminary

response, Patent Owner does not contest Petitioner's assertions regarding Everson's disclosures. We focus our discussion on exemplary limitations.

With respect to independent claims 1 and 16, Petitioner asserts that Everson discloses the recited "replacing the data stored in each one of the other plurality of first databases to correspond with the portion of the data altered in the one of the plurality of first databases" because Everson discloses that each node may be both a collector and a collectee node. Pet. 27–28 (citing Ex. 1003, 2:51–66, Ex. 1006 ¶¶ 30–35). In particular, Petitioner argues that one of Everson's nodes in a hierarchical network arrangement that is neither a leaf node nor a root node may serve as both a collector to a node at a lower level in the hierarchy and a collectee to a node at a higher level in the hierarchy. *Id.* Petitioner points to Everson's disclosure that a goal of Everson is to ensure "that any changes made to one database are propagated to other databases in the system so that data remains consistent." *Id.* at 28 (citing Ex. 1003, 1:26–35, 1:49–55. Everson describes various network configurations, including hierarchical (Ex. 1003, Fig. 1A) and star (Ex. 1003, Fig. 1B) configurations, and the need "for all of the processors or nodes to contain identical information in their databases." Ex. 1003, 2:44–46. Given Everson's disclosure of the need to synchronize the databases at all nodes and its disclosure of configurations that would require a node to receive updates and distribute those updates back to other nodes in order to maintain that synchronization throughout the network, we agree with Petitioner that Everson discloses the above-referenced limitation.

Although we have not provided an explicit construction of the plain and ordinary meaning of a "database," we note that we credit Dr. Hutchinson's testimony that the a cursor stores a result set from a query of a

database and that the result set would be stored as a table in the cursor, such that one of ordinary skill in the art would understand the result set to be a database. *See* Ex. 1006 ¶ 33. Therefore, we find Petitioner’s argument that Everson’s result set, which is used to temporarily store the data to be transmitted from a collectee to a collector, meets the “redundant data database,” recited in dependent claim 12.

Thus, based on the record, we find Petitioner has demonstrated a reasonable likelihood of prevailing in establishing that claims 1–6, 8, 9, 12, 15–17, and 19 are unpatentable as anticipated by Everson.

C. Anticipation of Claims 1–6, 8, 9, 12, 13, and 15 by Malpani

1. Malpani (Ex. 1002)

Malpani is a paper in an IEEE collection of papers from the proceedings of a conference on local computer networks. Malpani is directed to “efficient dissemination of information in a computer network,” and, more specifically, to an alleged improvement on the log propagation protocol by separating the log information from the temporal information. Ex. 1002⁶, 202. In particular, Malpani describes a system and method of “a log based propagation mechanism in which the transmission of the [data and temporal] components is decoupled.” *Id.* at 203. Malpani explains that distributed systems may require that information be disseminated in order to manage replicated objects, such as distributed databases. *Id.* at 202. Malpani discloses that applications involving replicated objects generally

⁶ We cite to the original pagination for Exhibit 1002, rather than the exhibit page numbers inserted by Petitioner.

require that all copies of the replicated object be mutually consistent, but that, depending on the application, the “degree of mutual consistency required may vary.” *Id.*

Malpani describes an event model, with distinct distributed nodes that each may send messages to every other node in the network. *Id.* at 203. Malpani describes using an “event model of execution,” where each event⁷ is either an application specific event or a communications event. *Id.* at 204. Only “[a]pplication specific events which modify the state of the object” are recorded in the logs. *Id.* Each node in Malpani’s network “maintains a log that records the application specific events that have occurred in the system,” and “each log is a set of events.” *Id.* at 204. Each event in the log is associated with a record that includes the operation and any parameters to the operation, the node at which the event occurred, and the time of occurrence of the event. *Id.* Malpani maintains a timetable at each node allowing that node to determine whether each other node is aware of events in its log. *Id.* at 205. Malpani uses the timetables to create a compressed log including only those events that a first node determines may be unknown to a second node. *Id.* The first node then sends that compressed log and its timetable as an update from the first node to the second node. *Id.* The second node appends the compressed log to its log and updates its timetable using the received timetable information. *Id.* If the node determines that all

⁷ Malpani appears to use event and operation interchangeably. *See* Ex. 1002, 204 (“we classify operations into two types . . . application specific operations [and] communication operations . . . Application specific events . . . are included in the log; communications events do not get recorded in the logs.”).

nodes already are aware of a particular event, it may delete the log entry corresponding to that event. *Id.*

2. *Anticipation Challenge*

Petitioner asserts that the subject matter of claims 1–6, 8, 9, 12, 13, and 15 is anticipated by Malpani under 35 U.S.C. § 102(b). Pet. 38–53. Petitioner provides a limitation-by-limitation analysis, quoting portions of Malpani that Petitioner alleges disclose each limitation and including portions of testimony from the Declaration of Dr. Norman Hutchinson (Ex. 1006). *Id.*

We have reviewed the Petition, the Preliminary Response, and the evidence of record, and we determine Petitioner has demonstrated a reasonable likelihood of prevailing in establishing that claims 1–6, 8, 9, 12, 13, and 15 are unpatentable as anticipated by Malpani. In its preliminary response, Patent Owner does not contest Petitioner’s assertions regarding Malpani’s disclosures. We focus our discussion on exemplary limitations.

With respect to independent claims 1 and 3, Petitioner asserts that Malpani discloses the recited “replacing the data in the second database [corresponding to/associated with] the altered portion of the data” because Malpani describes appending new log entries that supersede earlier entries relating to the same item. Pet. 44, 50 (citing Ex. 1002, 205–206, Ex. 1006 ¶¶ 24–29). In particular, Petitioner argues that new data appended to a log “replaces earlier data in the log.” *Id.* at 44 (citing Ex. 1006 ¶¶ 24–29).

Dr. Hutchinson explains that Malpani “uses a model of database that is common in more theoretical discussions of database synchronization issues,” wherein “data is stored in a log, a data structure that consists of a

series of events, each of which holds one piece of the data that is stored in the database.” Ex. 1006 ¶ 25. Dr. Hutchinson explains that each of those “pieces of the data would be a row from the database.” Dr. Hutchinson further declares that each entry appended to the log indicates that a change to the data has occurred through an event, such as creation, modification, or deletion of data. *Id.* Dr. Hutchinson equates the parameters of an operation, which are stored in each log entry with the operation, are equivalent to the fields of a row in a relational database. Dr. Hutchinson testifies that “changes to the database are accomplished by adding a new event to the end (or head) of the log, with newer events taking precedence over older events,” and “[d]ata is deleted by adding a ‘delete’ event to the log.” *Id.* In Malpani’s model, Dr. Hutchinson explains that data associated with a desired key (or unique identifier) is determined by looking up the most recent event in the log, such that events may be removed permanently once they have been replaced, which prevents the log from growing too large. *Id.* Based on the evidence submitted, we credit Dr. Hutchinson’s testimony that an ordinarily skilled artisan would have understood the log propagation method described by Malpani to disclose the relevant database operations, including identifying altered portions of data and replacing corresponding data in a second database.

Thus, based on the record, we find Petitioner has demonstrated a reasonable likelihood of prevailing in establishing that claims 1–6, 8, 9, 12, 13, and 15 are unpatentable as anticipated by Malpani.

D. Obviousness of Claims 16, 17, and 19 in view of Malpani

Petitioner asserts that the subject matter of dependent claims 16, 17, and 19 would have been obvious over Malpani under 35 U.S.C. § 103(a). Pet. 54–59. Petitioner provides a limitation-by-limitation analysis, quoting portions of Malpani that Petitioner alleges teach each limitation and including portions of testimony from the Declaration of Dr. Norman Hutchinson (Ex. 1006). *Id.*

We have reviewed the Petition, the Preliminary Response, and the evidence of record, and we determine Petitioner has demonstrated a reasonable likelihood of prevailing in establishing that claims 16, 17, and 19 are unpatentable as obvious in view of Malpani. In its preliminary response, Patent Owner does not contest Petitioner’s assertions regarding Everson’s disclosures.

Petitioner asserts Malpani teaches every limitation recited in claims 16, 17, and 19, but that Malpani does not explicitly disclose that the updates are transferred from a first database to a second database at a predetermined time. Pet. 54 (citing Ex. 1006, 70). Specifically, Petitioner states that Malpani provides no explicit disclosure of when or what triggers the updates. *Id.* Petitioner argues the lack of an explicit disclosure regarding any particular trigger for updating would have suggested to an ordinarily skilled artisan that any known technique could be used and that it would have merely been a design choice to transfer an update after a predetermined amount of time has elapsed. *Id.* at 54–55 (citing Ex. 1006, 70).

Thus, based on the record, we find Petitioner has demonstrated a reasonable likelihood of prevailing in establishing that claims 16, 17, and 19 are unpatentable as obvious in view of Malpani.

III. CONCLUSION

For the foregoing reasons, based on the information presented in the Petition and the Preliminary Response, we are persuaded that there is a reasonable likelihood that Petitioner would prevail in showing unpatentability of claims 1–6, 8, 9, 12, 13, 15–17, and 19 of the '506 patent.

At this stage of the proceeding, we have not made a final determination on the patentability of the challenged claims.

IV. ORDER

Accordingly, it is

ORDERED that, pursuant to 35 U.S.C. § 314, an *inter partes* review of U.S. Patent No. 7,685,506 B2 is hereby instituted on the grounds that the subject matter of claims 1–6, 8, 9, 12, 15–17, and 19 is asserted to be anticipated by Everson, the subject matter of claims 1–6, 8, 9, 12, 13, and 15 is asserted to be anticipated by Malpani, and the subject matter of claims 16, 17, and 19 is asserted to be obvious over Malpani;

FURTHER ORDERED that no other ground of unpatentability alleged in the Petition for any claim is authorized for this *inter partes* review; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial; the trial commences on the entry date of this decision.

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