

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ABS GLOBAL, INC.,
Petitioner,

v.

XY, LLC,
Patent Owner.

Case IPR2017-02184
Patent 7,208,265 B1

Before GRACE KARAFFA OBERMANN, SUSAN L. C. MITCHELL, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

ORDER
Authorizing Motion to Submit Supplemental Information
37 C.F.R. § 42.123(a)

DISCUSSION

On April 27, 2018, Patent Owner filed objections to the admissibility of Fugger (Ex. 1007), which was introduced in the grounds of unpatentability stated in the Petition. Paper 12, 1 (statement of objections); *see* Paper 1, 5 (Petition, asserting Fugger in the second stated ground of unpatentability). On May 11, 2018, by email communication with the Board, Petitioner requested authorization to file a motion to submit supplemental information pursuant to 37 C.F.R. § 42.123(a). *See* Ex. 3002 (copy of email communication).

The request for authorization was “made within one month of the date” of trial institution. *Compare* Paper 10 (institution decision, filed April 13, 2018) *with* Ex. 3002 (email request, dated May 11, 2018). Based on the information presented in the email communication, we determine that the information sought to be added to the record is relevant to a claim for which trial has been instituted. *See* Ex. 3002 (describing content of Exhibits 1035–1047 as tending to corroborate public accessibility of Fugger (Exhibit 1007)).

Accordingly, we *grant* Petitioner’s request for authorization to file a motion to submit supplemental information pursuant to 37 C.F.R. § 42.123(a). The motion shall be limited to five (5) pages and must be filed within five (5) business days of this Order. Any evidence filed in support of the motion shall be limited to Exhibits 1035–1047, as identified in Exhibit 3002. Patent Owner is authorized to file a response to the motion that may include responsive supporting evidence. The response shall be limited to five (5) pages and must be filed within five (5) business days of the filing of the motion. If Patent Owner files a response, Petitioner is

authorized to file a reply that may include responsive supporting evidence. The reply shall be limited to three (3) pages and must be filed within three (3) business days of the filing of the response.

ORDER

It is

ORDERED that Petitioner's request for authorization to file a motion to submit supplemental information pursuant to 37 C.F.R. § 42.123(a) is *granted*;

FURTHER ORDERED that the motion shall be limited to five (5) pages and must be filed within five (5) business days of this Order;

FURTHER ORDERED that any evidence filed in support of the motion shall be limited to Exhibits 1035–1047, as identified in Exhibit 3002;

FURTHER ORDERED that Patent Owner is authorized to file a response to the motion that may include responsive supporting evidence;

FURTHER ORDERED that any response shall be limited to five (5) pages and must be filed within five (5) business days of the filing of the motion;

FURTHER ORDERED that, if Patent Owner files a response, Petitioner is authorized to file a reply that may include responsive supporting evidence;

FURTHER ORDERED that any reply shall be limited to three (3) pages and must be filed within three (3) business days of the filing of the response; and

FURTHER ORDERED that no further additional briefing or evidence is authorized at this time.

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