

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC., FORTINET, INC., and
WATCHGUARD TECHNOLOGIES, INC.
Petitioner,

v.

SELECTIVE SIGNALS, LLC,
Patent Owner.

Case IPR2018-00594
Patent 8,111,629 B2

Before MELISSA A. HAAPALA, *Acting Vice Administrative Patent Judge*,
and KRISTEN L. DROESCH and MATTHEW R. CLEMENTS,
Administrative Patent Judges.

CLEMENTS, *Administrative Patent Judge*.

ORDER
Information on Motion to Amend
37 C.F.R. § 42.5

A conference call in the above proceeding was held on November 2, 2018, among respective counsel for Petitioner and Patent Owner, and Judges Droesch, Clements, and Haapala. The purpose of the call was to discuss Patent Owner's intention to file a motion to amend.

During the call, we reminded the parties that a motion to amend is authorized by 35 U.S.C. § 316(d), and is further regulated by 37 C.F.R. § 42.121. Patent Owner's Motion to Amend must comply with these provisions. We also referred the parties to the Memorandum re: Guidance on Motions to Amend in view of *Aqua Products* (Nov. 21, 2017) (available at https://www.uspto.gov/sites/default/files/documents/guidance_on_motions_to_amend_11_2017.pdf).

Furthermore, as set forth in 37 C.F.R. § 42.24, Patent Owner's motion to amend, and Petitioner's opposition thereto, are limited to twenty-five (25) pages. 37 C.F.R. §§ 42.24(a)(1)(vi), 42.24(b)(3). Patent Owner's reply thereto is limited to twelve (12) pages. *Id.* § 42.24(c)(3). Pursuant to our Scheduling Order and the parties' Notice of Stipulation Adjusting Due Dates 1 and 2, these papers must be filed by November 23, 2018, February 21, 2019, and March 11, 2019, respectively. Paper 14, 7; Paper 16.

After our Scheduling Order issued, the Board issued an update to our Trial Practice Guide (*see* 83 Fed. Reg. 39,989 (Aug. 13, 2018); *see also* full text of update at <https://go.usa.gov/xU7GP> ("Trial Practice Guide Update"), which provides for Petitioner to file a sur-reply to Patent Owner's reply in support of its motion to amend. Petitioner requested authorization to file the sur-reply. We instructed the parties to stipulate to a Due Date for this paper, along with any necessary changes to Due Dates 4 and 5, subject to the

limitations in the Scheduling Order (Paper 14, 2, 7 n.1). The parties should file a joint notice identifying the agreed-upon due date.

The requirements for filing a motion to amend were discussed generally during the conference call. For additional guidance, see *Western Digital Corp. v. SPEX Technologies, Inc.*, Case IPR2018-00082, Paper 13 (PTAB Apr. 25, 2018).

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner has satisfied the conference requirement of 37 C.F.R. § 42.121(a);

FURTHER ORDERED that Petitioner's request for authorization to file a sur-reply to Patent Owner's reply in support of its motion to amend, if Patent Owner chooses to file one, is granted; and

FURTHER ORDERED that the parties shall confer with each other regarding a due date for Petitioner's sur-reply and file a joint notice identifying the agreed-upon due date.

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