

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. and GOOGLE LLC¹,
Petitioner,

v.

SPACETIME3D, INC.,
Patent Owner.

IPR2023-00242 (Patent 8,881,048 B2)
IPR2023-00343 (Patent 9,304,654 B2)
IPR2023-00344 (Patent 9,696,868 B2)²

Before HUBERT C. LORIN, DAVID C. McKONE, and
SHEILA F. McSHANE, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

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

¹ Google LLC was joined as Petitioner to IPR2023-00242, -00343, and -00344 via the granting of motions for joinder filed in IPR2023-00577, -00579, and -00578, respectively. *See* Paper 14 in IPR2023-00242, -00343, and -00344.

² This Order applies to all three proceedings. The parties, however, are not authorized to use this style heading for any subsequent papers.

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By email of March 28, 2024, the Board notified the parties that it had been made aware of the following three Reexam Orders, mailed on March 25, 2024, involving patents that are the subject of IPR2023-00242, -00343, and -0344 as follows:

- 90/019,351 [US 9,304,654]
 - IPR2023-00343 joined with IPR2023-00579
- 90/019,352 [US 9,696,868]
 - IPR2023-00344 joined with IPR2023-00578
- 90/019,353 [US 8,881,048]
 - IPR2023-00242 joined with IPR2023-00577

Ex. 3003, 2–3.

In the response email received on April 5, 2024, Patent Owner states that it “seeks the Board’s authorization to file a motion to request an immediate stay of the reexaminations.” Ex. 3003, 1. Petitioner (Apple Inc., joined by Google LLC) states, *inter alia*, that it “does not oppose SpaceTime3D’s request to file a motion to stay if Apple is similarly authorized to submit an opposition to that motion consistent with 37 C.F.R. §§ 42.23 and 42.24.” *Id.*

Based on the foregoing, we *grant* Patent Owner’s request for authorization to file a motion to request an immediate stay of the reexaminations and we *grant* Petitioner’s request to submit an opposition to that motion consistent with 37 C.F.R. §§ 42.23 and 42.24.

The parties are reminded that the Board may enter an order staying a reexamination proceeding where good case exists. 37 C.F.R. § 42.122(a); *see also* 35 U.S.C. § 315(d); 37 C.F.R. § 42.3(a). “[T]he Board ordinarily will stay a [reexamination] where good cause exists.” *Notice Regarding*

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Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding, 84 Fed. Reg. 16654, 16,656 (Apr. 22, 2019). “Good cause for staying a case may exist if, for example, an on-going [IPR] proceeding, which is subject to statutory deadlines, is addressing the same or overlapping claims of a patent at issue in [the reexamination].” *Id.* Factors the Board may consider when deciding whether to stay a reexamination, include:

1. whether the claims challenged in the IPR are the same as or depend directly or indirectly from claims at issue in the reexamination;
 2. whether the same grounds of unpatentability or the same prior art are at issue in both the IPR and the reexamination;
 3. whether simultaneous conducting the reexamination and IPR will duplicate efforts within the Office;
 4. whether the reexamination could result in inconsistent results between proceedings;
 5. whether amending the claim scope in one proceeding would affect the claim scope in another proceeding;
 6. the respective timeline and stage of each proceeding;
 7. the statutory deadlines of the reexamination and IPR;
- and
8. whether a decision in one proceeding would likely simplify issues in the concurrent parallel Office proceeding or render it moot.

Id. at 16,657.

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It is

ORDERED that Patent Owner's request for authorization to file motions for an immediate stay of reexaminations 90/019,351, 90/019,352, and 90/019,353, in IPR2023-00343, -00344, and -00242, respectively, is GRANTED;

FURTHER ORDERED that the motions for an immediate stay of reexaminations 90/019,351, 90/019,352, and 90/019,353 are limited to 10 pages each and must be filed within seven business days;

FURTHER ORDERED that Petitioner may file in each of IPR2023-00343, -00344, and -00242 a ten-page opposition seven business days after the motion in each proceeding is filed; and,

FURTHER ORDERED that Patent Owner may file in each of IPR2023-00343, -00344, and -00242 a five-page reply seven business days after the opposition in each proceeding is filed.

No further briefing is authorized at this time.

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