

Timeline of Events for Petitioner’s Motion to Strike
with Patent Owner Wang’ s Edits Added in Red

October 3, 2023 – Original Due Date 1. Paper 14 (IPR2023-00473); Paper 16 (IPR2023-00474).

* August 23, 2023: Patent Owner (“Wang”) requests two-week extension.

Ex. 1040 -- because, when Wang requested dates of availability of Viking’s sole expert witness, Professor Steven Schmid, between September 4 and 15, 2023, Viking offered Professor Schmid for deposition only on September 26, 2023, citing academic commitments. See Ex. 2111.

* October 2, 2023: PO requests another two-week extension. Ex. 1038 -- because we subsequently learned that our expert witness was going to be preoccupied by his own academic commitments, namely, his annual graduate student reviews for the entire weeks of October 9 and 16, 2023. See Ex. 2112.

October 31, 2023: Extended deadline for Due Date 1. Paper 22 (IPR2023-00473); Paper 24 (IPR2023-00474).

November 1, 2023 (12:38 a.m. ET): PO files the last of the ~~response and~~ exhibits, including now-expunged Ex. 2034 (technical expert’s declaration). Ex. 1037 at 3. Petitioner requests service from PO. Ex. 1039 at 1.

November 1, 2023 (12:42 p.m. ET): Board expunges PO’s papers and exhibits filed on November 1. Ex. 1037 at 3 -- for not complying with Patent Rule 37 CFR 42/6(a)(2), (a)(3) and (d), id., which Wang corrected in good faith shortly thereafter. See Paper 28 and Exhibits 2034, 2035, 2036 and 2037.

November 1, 2023 (1:32 p.m. ET): PO serves Petitioner with the last of the now-expunged papers and exhibits. ~~Ex. 1039 at 3.~~ See Ex. 2107 and 2108.

November 3, 2023: Petitioner informs PO that paragraphs 52-120 appeared to be missing from Dr. Endres’ declaration (Ex. 2034 in IPR2023-00473), and that the IPR2023-00473 appears identical to the IPR2023-00474 IPR declaration. Ex. 1039 at 2. Petitioner emails PO about possible violations of protective order. Ex. 1042 at 1-2.

November 3, 2023 (5:19 p.m. ET): Petitioner requests clarification from the Board regarding objections to PO’s exhibits. Ex. 1037 at 2-3.

November 4, 2023: PO’s counsel emails Petitioner a “combined declaration” for both IPRs signed by Dr. Endres on November 4, 2023. Ex. 1042 at 1 -- as Wang had intended on October 31 when its expert witness could sign onto only a portion of his declaration in time and as Wang promised to Viking on November 1. See Ex. 2112.

November 7, 2023: PO files “corrected” papers and exhibits with the Board. See Paper 28 and Ex. 2034 in IPR2023-00473, Paper 30 and Ex. 2034 IPR2023-00474.

November 14, 2023: Petitioner files objections to PO Response/exhibits. Paper 33 (IPR2023-00473); Paper 35 (IPR2023-00474).

November 21, 2023: Deposition of PO's Technical Expert, Dr. Endres. *See* Paper 31 (IPR2023-00473); Paper 33 (IPR2023-00474).

November 28, 2023: Deposition of David Fisher. *See* Paper 32 (IPR2023-00473); Paper 34 (IPR2023-00474).

November 28, 2023: PO serves Exs. 2050, 2053, and 2054 on Petitioner.

December 6, 2023: Petitioner receives final version of Dr. Endres' deposition transcript and belatedly informs PO of intent to request leave to file motion to strike. Ex. 1041 at 2-4.