

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIGHTRICKS LTD.,
Petitioner,
v.
PLOTAGRAPH, INC. and SASCHA CONNELLY,
Patent Owner.

IPR2023-00153 (Patent 10,346,017 B2)
IPR2023-00154 (Patent 10,621,469 B2)
IPR2023-00568 (Patent 11,182,641 B2)

GRANT OF GOOD CAUSE EXTENSION
35 U.S.C. § 316(a)(11); 37 C.F.R. § 42.100(c)

Pursuant to 35 U.S.C. § 316(a)(11), “the final determination in an inter partes review [shall] be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months” The Director has delegated the authority to extend the one-year period to the Chief Administrative Patent

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Judge. *See* 37 C.F.R. § 42.100(c). In particular, 37 C.F.R. § 42.100(c) provides:

An *inter partes* review proceeding shall be administered such that pendency before the Board after institution is normally no more than one year. The time can be extended by up to six months for good cause by the Chief Administrative Patent Judge

In accordance with 37 C.F.R. § 42.100(c), the Chief Administrative Patent Judge has determined that good cause exists to extend the one-year period for issuing a Final Written Decision in these proceedings.

Prior to Petitioner’s filing of the petitions in these proceedings, the U.S. District Court for the Southern District of Texas found the claims challenged in these proceedings to be directed to patent-ineligible subject matter under 35 U.S.C. § 101 and dismissed parallel litigation between the parties under Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

Plotagraph, Inc. v. Lightricks Ltd., 620 F. Supp. 3d 591, 602 (S.D. Tex. 2022). On January 22, 2024, the U.S. Court of Appeals for the Federal Circuit entered a decision affirming the district court’s determination, and on March 25, 2024, the Federal Circuit denied a petition for en banc hearing of that decision. *Plotagraph, Inc. v. Lightricks, Ltd.*, No. 2023-1048, 2024 WL 223185 (Fed. Cir. Jan. 22, 2024); *Plotagraph, Inc. v. Lightricks, Ltd.*, No. 2023-1048, slip op. at 2 (Fed. Cir. Mar. 26, 2024).

In an email message dated June 26, 2024, Petitioner informed the Board that Patent Owner “filed a petition for writ of certiorari on Monday, June 24, 2024, appealing the invalidation of all claims of all challenged patents under 35 U.S.C. § 101 in the parallel district court litigation.”

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IPR2023-00153, Ex. 3004. In view of Patent Owner’s filing, Petitioner represents that the parties jointly request a stay of the proceedings pending the Supreme Court’s decision on the certiorari petition. *Id.* Citing *A Reporter’s Guide to Applications Pending Before the Supreme Court of the United States* (<https://supremecourt.gov/publicinfo/reportersguide.pdf>), Petitioner contends that a decision can reasonably be expected by October 7, 2024, necessitating an extension of the existing September 5, 2024, final decision deadline in IPR2023-00153 and IPR2023-00154, and the October 2, 2024, final decision deadline in IPR2023-00568. *Id.* Petitioner represents that “both parties recognize [that] there is an exceedingly high likelihood that the Court will deny the petition to make the invalidity of all challenged patents final, upon which the parties will seek termination of the proceedings for mootness.” *Id.* Petitioner contends that “[t]he exceedingly high likelihood that Board and party resources would be preserved by a stay . . . provides . . . good cause” for an extension under 37 C.F.R. § 42.100(c).

In view of the facts and arguments set forth above, the limited time remaining in the one-year period for issuing a Final Written Decision in these proceedings, and the unique circumstances of these cases, the Chief Administrative Patent Judge has determined that good cause exists to extend the one-year period for issuing a Final Written Decision.

Users,
Boalick, Scott

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Scott R. Boalick
Chief Administrative Patent Judge

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