

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DURATION MEDIA LLC,
Petitioner,

v.

RICH MEDIA CLUB LLC,
Patent Owner.

IPR2023-00953
Patent 11,443,329 B2

Before KARL D. EASTHOM, MICHAEL J. FITZPATRICK, and
JASON M. REPKO, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

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

On August 30, 2023, we entered a Decision Granting Institution of *Inter Partes* Review. Paper 9 (“Dec.”). The prior art references relied-upon in the Petition are: US 10,380,602 B2, issued Aug. 13, 2019 (“Krassner,” Ex. 1002); US 7,725,502 B1, issued May 25, 2010 (“Badros,” Ex. 1003); and US 2008/0221982 A1, published Sept. 11, 2008 (“Harkins,” Ex. 1004). Dec. 10. In our Decision, we noted that “Petitioner asserts that each of these references constitutes prior art under 35 U.S.C. § 102(b),” but that they are not. *Id.* We nonetheless determined that they were prior art under 35 U.S.C. § 102(e). *Id.* at 13.

On September 12, 2023, Petitioner requested a conference call to seek authorization to file a motion to submit supplemental information consisting of earlier-published versions of Krassner and Badros, which Patent Owner opposes.

On September 13, 2023, the Board conducted a call with both parties’ counsel. During the call, counsel for Petitioner sought authorization to file either the above-described motion under 37 C.F.R. § 42.123(a) or a motion under 37 C.F.R. § 42.104(c). *See* 37 C.F.R. § 42.104(c) (“A motion may be filed that seeks to correct a clerical or typographical mistake in the petition.”). We heard from both parties’ counsel, including Patent Owner’s concern about the impact to the schedule.

We authorized a motion and response as described below. We also informed the parties that we expect them to meet and confer regarding any adjustments to the schedule promptly upon our ruling on Petitioner’s motion and that, if a stipulation cannot be reached, the parties should contact the Board.

Accordingly, it is

ORDERED that Petitioner may file, no later than September 20, 2023, a single motion, limited to five pages, seeking relief under 37 C.F.R. § 42.123(a) and/or 37 C.F.R. § 42.104(c); and

FURTHER ORDERED that Patent Owner may file, no later than September 27, 2023, a response to Petitioner's motion, which is also limited to five pages.

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