

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LTD.,
Petitioner,

v.

FLIP PHONE GAMES INC.,
Patent Owner.

IPR2024-00133
Patent 8,688,089 B2

Before DAVID C. McKONE, DANIEL J. GALLIGAN, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

HOWARD, *Administrative Patent Judge*.

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

PLR Worldwide Sales Ltd. (“Petitioner”) filed a Petition for *inter partes* review (Paper 2) challenging claims 1–10 of U.S. Patent No. 8,688,089 B2 (Ex. 1001). Flip Phone Games Inc. (“Patent Owner”) filed a Preliminary Response (Paper 7). With our authorization, Petitioner filed a Reply to Patent Owner’s Preliminary Response (Paper 8) and Patent Owner filed a Preliminary Sur-reply (Paper 9).

In response, we denied institution of *inter partes* review. Paper 10 (“Decision Denying Institution”). The Director has now vacated and remanded our Decision Denying Institution. Paper 12. Specifically, the Director directed that we:

shall issue a new decision on institution resolving the claim construction of “a non-promotional background object.” Consistent with *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313–14 (Fed. Cir. 2005), the Board should resolve the proper meaning of that term by first assessing the intrinsic evidence, and then consulting extrinsic evidence if necessary. *See, e.g., Samsung Elecs. Co., Ltd. v. Slyde Analytics, LLC*, IPR2024-00040, Paper 14 at 7–8 (Vidal Aug. 2, 2024) (discussing the *Phillips* framework). The Board shall consider all remaining necessary issues, and determine whether to institute trial consistent with this decision.

Id. at 7–8 (footnote omitted).

ORDER

Accordingly, it is

ORDERED that a decision on institution will issue as soon as possible and, in any event, no later than December 3, 2024; and

FURTHER ORDERED that additional briefing by any party is not authorized at this time.

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