

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MENTOR GRAPHICS CORPORATION
Petitioner

v.

SYNOPSIS, INC.
Patent Owner

Case IPR2014-00287
Patent 6,836,420 B1

Before JENNIFER S. BISK, SCOTT A. DANIELS, and
PHILIP J. HOFFMANN, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

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

The Board conducted a conference call on May 19, 2014 with counsel for the parties and the Panel of Administrative Patent Judges.

Mentor's counsel initiated the call requesting authorization to file a motion to supplement the Petition (Paper 6) and provide additional testimonial evidence from a third party deposition undertaken by Mentor in unrelated litigation concerning the public availability of the reference entitled, *Xilinx Synthesis Technology (XST) User Guide* (Ex. 1005). Specifically, Petitioner proposed such a submission under the Board's broad authority to determine the proper course of a proceeding under 37 C.F.R. § 42.5. Synopsys opposed authorization for such a motion, characterizing the supplemental evidence as an improper reply to Patent Owner's Preliminary Response and noted that the Board rules for *inter partes* review do not provide for such reply.

Upon consideration of the parties' positions, the Board denied authorization to file a motion to supplement the Petition. Specifically, the Board noted the delay of almost five months since the deposition, which occurred January 28th, 2014, and almost two months from the filing of the Preliminary Response on March 21, 2014. Such delay creates a significant burden on the Board's ability to adhere to the statutory deadline under 35 U.S.C. § 314(b). Further, the Board noted the lack of any rule under 37 C.F.R. § 42 permitting supplementation of a petition for *inter partes* review. The Board addressed the concern that similar testimonial evidence of public availability could have been submitted with the Petition. Thus, the Board declined to exercise its discretion to permit a motion to supplement.

Therefore, the request for authorization to file motion to supplement is *denied*.

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