

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K-40 ELECTRONICS, LLC
Petitioner

v.

ESCORT, INC.
Patent Owner

Case IPR2013-00203
Patent 7,999,721

Before GLENN J. PERRY, THOMAS L. GIANNETTI, and
TRENTON A. WARD, *Administrative Patent Judges*.

WARD, *Administrative Patent Judge*.

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

A conference call was held on June 16, 2014 and attended by the above-identified panel members and respective counsel for the parties. The following matters were discussed.

Petitioner filed Objections (Paper 40) on June 12, 2014 to certain of Patent Owner's demonstratives (Papers 37, 38, and 39) filed June 10, 2014. During the call, Petitioner identified specific rejections to pages 125 and 324-326 of Patent Owner's demonstratives. *See also* Paper 40, 2-3. Patent Owner responded to the objections by stating that the majority of the demonstratives were duplicates of documents already entered into the record and that Patent Owner was unsure as to what materials it would be permitted to reference during the oral argument. Patent Owner also indicated that it may not rely upon every page of the demonstratives.

We informed the parties that, for this proceeding, any document previously marked as an exhibit and entered into the record could be referred to and relied upon by either party during the oral hearing. Furthermore, we informed Patent Owner that its demonstratives duplicating materials already in the record were redundant and unnecessary. The Board may expunge any paper that is not authorized. 37 C.F.R. § 42.7(a). Accordingly, we hereby expunge Patent Owner's demonstratives (Papers 37, 38, and 39) filed June 10, 2014 because, *inter alia*, the majority of these materials are duplicative of the record.

Demonstratives are intended to be a visual aid to a party's presentation. *See* Order for Conduct of Proceeding in IPR2013-00033, Paper 118, 2-4. Furthermore, by the time a proceeding reaches final oral hearing, nothing new can be presented, no new evidence, no new arguments. *Id.* at 2.

Patent Owner may re-file its demonstrative exhibits today, June 16, 2014, omitting any documents that are already in the record or that exceed the scope of what constitutes a proper demonstrative exhibit. *See id.* at 2-4.

The panel will reserve ruling on Petitioner's Objections until after the hearing.

ORDER

In view of the foregoing, it is, therefore,

ORDERED Patent Owner's demonstratives (Papers 37, 38, and 39) filed June 10, 2014 are expunged;

FURTHER ORDERED that Patent Owner may re-file its demonstrative exhibits today, June 16, 2014, subject to the restriction that exhibits that are already part of the record be omitted; and

FURTHER ORDERED that rulings on Petitioner's objections to Patent Owner's demonstrative exhibits are reserved until after the hearing.

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