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Paper 126 (IPR2014-00041)
Paper 109 (IPR2014-00043)
Paper 108 (IPR2014-00051)
Paper 125 (IPR2014-00054)
Paper 101 (IPR2014-00055)
Entered: October 16, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GEA PROCESS ENGINEERING, INC.,
Petitioner,

v.

STEUBEN FOODS, INC.,
Patent Owner.

Cases¹

IPR2014-00041 (Patent 6,945,013 B2)
IPR2014-00043 (Patent 6,475,435 B1)
IPR2014-00051 (Patent 6,209,591 B1)
IPR2014-00054 (Patent 6,481,468 B1)
IPR2014-00055 (Patent 6,536,188 B1)

Before MICHAEL P. TIERNEY, RAMA G. ELLURU, and
BEVERLY M. BUNTING, *Administrative Patent Judges*.

ELLURU, *Administrative Patent Judge*.

ORDER

Conduct of the Proceedings
37 C.F.R. § 42.5

¹ This order addresses issues raised in all five cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

IPR2014-00041 (Patent 6,945,013 B2)
IPR2014-00043 (Patent 6,475,435 B1)
IPR2014-00051 (Patent 6,209,591 B1)
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IPR2014-00055 (Patent 6,536,188 B1)

The parties, with our authorization, stipulated to changing the date by which a party had to request oral hearing to September 24, 2014. Papers 16² and 89 (due date 4). On September 24, Patent Owner, Steuben Foods, Inc. (“Steuben Foods”), requested oral hearing, currently scheduled for November 7, 2014. Paper 98. Petitioner, GEA Process Engineering, Inc. (“GEA”), did not make a request for oral hearing. For the reasons discussed below, we postpone the oral hearing until a later date.

On August 18, 2014, Steuben Foods filed a motion, in all five cases, addressing two issues: (1) whether GEA identified all real-parties-interest in its Petitions; and (2) what relief we should grant if we determine that GEA did not identify all real-parties-in-interest in its Petitions. Paper 63. GEA filed an opposition (Paper 79; *see also* Paper 81 at 4), and Steuben Foods filed a Reply in support of its Motion on October 7, 2014 (Paper 108). In addition, also on October 7, we issued an order addressing motions to seal, and papers and exhibits that have been filed under seal without corresponding motions to seal in these five cases. Paper 107. Much of the information filed under seal relates to issues raised in the parties’ real parties-in-interest briefing. We ordered the parties to file a joint submission for each case by October 13, 2014, that includes information addressing our various concerns about the papers and exhibits that have been filed under seal. *Id.* at 5; Paper 124 (identifying 25 sealed documents). We have

² All references to papers are to the IPR2014-00041 case.

IPR2014-00041 (Patent 6,945,013 B2)
IPR2014-00043 (Patent 6,475,435 B1)
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determined that it is necessary to decide the parties' various motions to seal before we can hold an oral hearing so that we will know which papers and exhibits are, and are not, part of the public record.

In addition, on October 15, 2014, we held a teleconference with respective counsel for GEA and Steuben Foods, and Judges Tierney, Elluru, and Bunting.³ GEA requested the call to request authorization to file a Sur-reply to respond to Steuben Foods' Reply, filed in support of its Motion relating to real-parties-in-interest. As requested by GEA, we authorized a two-page Sur-reply to be filed by Friday, October 17, 2014 in each of the five cases, that is responsive to only the full paragraph on page 2 and the first two line of page 4 of Steuben Foods' Reply. GEA is not authorized to refer to any new evidence or raise any new arguments. To the extent GEA's Sur-reply goes outside the authorized scope, we may disregard the Sur-reply in its entirety. We denied Steuben Foods authorization to file a Sur-Sur-reply.

Given Steuben Foods' pending motion directed to real parties-in-interest, and the numerous motions to seal that need to be addressed before we can hold an oral hearing, we postpone the oral hearing, currently scheduled for November 7, 2014, until a later date to be decided by the Board in due course.

In consideration of the foregoing, it is hereby:

³ Please note that Judge Carl M DeFranco is currently not a panel member for these cases.

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ORDERED that the oral hearing in these five cases, currently scheduled for November 7, 2014, is postponed until a later date to be decided by the Board in due course; and

FURTHER ORDERED that GEA is authorized to submit a two-page Sur-reply in each of the five cases, by Friday, October 17, 2014, that is responsive to only the full paragraph on page 2 and the first two line of page 4 of Steuben Foods' Reply, filed in support of Steuben Foods' Motion relating to real parties-in-interest. GEA is not authorized to refer to any new evidence or raise any new arguments in its Sur-reply.

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