

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOBOTIX CORP.
Petitioner,

v.

e-WATCH, INC.
Patent Owner.

Case IPR2013-00498
Patent 7,023,913

Before JAMESON LEE, MICHAEL W. KIM, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.05

Introduction

On June 10, 2014, counsel for Petitioner requested a telephone conference call to discuss whether the fact that the Patent Owner filed no Preliminary Response or Patent Owner Response constitutes abandonment of the contest justifying award of judgment to the Petitioner.

Discussion

No such conference call is authorized because non-filing of the Preliminary Response and the Patent Owner Response, without more, does not constitute abandonment of the contest justifying entry of adverse judgment against the Patent Owner. Because the Patent Owner filed no Patent Owner Response or Motion to Amend Claims, it is appropriate to adjust Due Dates 2-7 first set in Paper 11 and thereafter modified in Paper 14. Specifically, Due Dates 2 and 3 are now moot and inapplicable, and Due Dates 4-7 are reset as shown below in the Order section.

When responding to Petitioner's request for a conference call, counsel for the Patent Owner indicated in an email communication to the administrative staff of the Board that Michael Smith and Jeffrey Hunt are no longer counsel for Patent Owner. Messrs. Smith and Hunt are on notice that they remain counsel for Patent owner until a motion to withdraw has been filed and granted. 37 C.F.R. § 42.10(e).

Order

It is

ORDERED that Due Dates 4-7 are reset as follows:

Due Date 4	July 5, 2014
Due Date 5	July 19, 2014
Due Date 6	July 26, 2014
Due Date 7	To be determined;

FURTHER ORDERED that if either party requests oral argument, the party shall initiate a joint conference call with the Board within one week of the filing of the request for oral argument;

FURTHER ORDERED that both Mr. Michael G. Smith and Mr. Jeffrey D. Hunt remain as counsel for the Patent Owner and have all the duties and responsibilities as counsel until a motion to withdraw has been filed and granted; and

FURTHER ORDERED that if Mr. Michael G. Smith or Mr. Jeffrey D. Hunt desires to file a motion to withdraw, prior authorization for filing the motion is required, 37 C.F.R. § 42.20(b), preferably by use of a telephone conference call to seek that authorization, and that if the basis for the desired withdrawal includes certain disagreement with the Patent Owner, an Officer of the Patent Owner is required to be present on the call.

IPR2013-00498
Patent 7,023,913

For Petitioner:

P. Weston Musselman, Jr.
Adam Shartzter
musselman@fr.com
shartzter@fr.com

For Patent Owner:

Michael Smith
pto@patent-counselors.com