

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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STANDARD INNOVATION CORPORATION  
Petitioner

v.

LELO, INC  
Patent Owner

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Case IPR2014-00148  
Patent 7,749,178 B2

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Before PHILLIP J. KAUFFMAN, JACQUELINE WRIGHT BONILLA, and  
CHRISTOPHER L. CRUMBLEY, *Administrative Patent Judges*.

KAUFFMAN, *Administrative Patent Judge*.

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

On August 26, 2014, a conference call was conducted among respective counsel for the parties and Judges Kauffman, Bonilla, and Crumbley. Petitioner, Standard Innovation Corporation, was represented by counsel, Robert Lord, Lisa Margonis, and Tammy Terry. Patent Owner, Lelo, Inc., was represented by counsel, Robert Halsa and Hector Ribera. The purpose of the call was to discuss the timeliness of the Patent Owner's Response.

The parties previously stipulated that Patent Owner's Response under 37 C.F.R. § 42.120 and a possible motion to amend under 37 C.F.R. § 42.121 were due by a stipulated Due Date 1 of August 18, 2014. Paper 10. Patent Owner submitted their Response to the Petition on August 19, 2014, and did not submit a motion to amend. Paper 12.

The Panel authorized Patent Owner to submit a motion to deem the late filing of the Patent Owner Response as timely, not to exceed five pages, by September 2, 2014. The Panel recommended that the motion address what documents were filed with the Board and when, any technical difficulties that prevented timely filing, and any additional information regarding service (beyond that provided in the certificate of service of the Patent Owner's Response). *See* Paper 12. The motion should be accompanied by a declaration from the person who filed the documents in question with the Board.

The Panel authorized Petitioner to submit an opposition to that motion of up to five pages. The Panel advised Petitioner that the due date of the Patent Owner Response is not a statutory requirement. The Panel recommended that Petitioner's opposition, if submitted, focus on any actual prejudice caused by the delay, keeping in mind that the extension to August 18, 2014, for Due Date 1 was mutually agreed upon, and that the parties are free to stipulate to further extensions of Due Dates 2-5, if necessary, to take into account Patent Owner's delay in filing.

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In light of the foregoing, it is hereby

ORDERED that, Patent Owner is authorized to submit a motion to deem the Patent Owner Response as timely filed, no later than September 2, 2014; and,

FURTHER ORDERED that Petitioner is authorized to file an opposition to that motion no later than September 8, 2014.

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