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Paper 90 (IPR2014-00041)
Paper 79 (IPR2014-00043)
Paper 78 (IPR2014-00051)
Paper 88 (IPR2014-00054)
Paper 71 (IPR2014-00055)
Entered: September 12, 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 RAMA G. ELLURU, BEVERLY M. BUNTING, and
CARL M. DEFRANCO, *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)
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IPR2014-00055 (Patent 6,536,188 B1)

A conference call in IPR2014-00041, IPR2014-00043, IPR2014-00051, IPR2014-00054, and IPR2014-00055 was held on September 11, 2014, among respective counsel for Petitioner, GEA Process Engineering, Inc., and Patent Owner, Steuben Foods, Inc., and Judges Elluru, DeFranco, and Bunting.

On August 13, 2014, we authorized the parties to file briefing regarding whether Petitioner identified all real-parties-in-interest in its Petitions, and what relief should be granted if we determine that Petitioner did not identify all real-parties-in-interest. IPR2014-00041, Paper 62 at 3². Petitioner's Refiled Opposition to Patent Owner's Motion Concerning Petitioner's Failure to Identify All Real Parties in Interest With Corrected Appendix A (Paper 79) refers to and relies on a declaration submitted by Brian Casto. Paper 79 at 1 (citing Ex. 1056). Mr. Casto's declaration states that [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Ex. 1056 ¶ 10.

During the September 11 teleconference, Patent Owner requested that Petitioner produce the invoices to which the declaration refers before Mr.

² All references to papers are to the IPR2014-00041 case, unless indicated otherwise.

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Casto's scheduled deposition. *See* Ex. 1056 ¶ 10. Petitioner argued that the invoices were protected by the attorney-client privilege and/or the work-product doctrine. Patent Owner argued that any such privilege had been waived by the declarant's reference to the invoices. We did not reach the waiver issue.

We ordered Petitioner to produce to Patent Owner, Pillsbury invoices that reference any IPR expense, with appropriate redactions. We stated that appropriate redactions include specific descriptions of services provided by Pillsbury, but that general references to services provided were not to be redacted. As for the relevant time period of invoices, we stated that Petitioner should produce the first-in-time Pillsbury invoice that references an IPR expense, and all invoices that reference any IPR expense from then until June 30, 2014. We further indicated an invoice that references an IPR expense should be produced, even if the invoice also refers to an expense for the related district court litigation.

The parties indicated that they have agreed to change Due Dates 4–6. The parties shall file a stipulation identifying the changed due dates. We further indicated that Due Date 6 must be more than a week before the oral hearing, currently scheduled for November 7, 2014.

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner shall produce to Patent Owner Pillsbury invoices that reference any IPR expense with appropriate redactions, beginning with the first-in-time Pillsbury invoice that references an IPR

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IPR2014-00055 (Patent 6,536,188 B1)

expense and all invoices that reference any IPR expense from then until June 30, 2014; and

FURTHER ORDERED that the parties shall file a stipulation identifying the agreed upon due dates for Due Dates 4–6, with the exception that Due Date 6 must be more than a week before the November 7, 2014, oral hearing.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached REDACTED version of the attached paper is being served on October 10, 2014 by email pursuant to an agreement between the parties on the attorneys of record of Steuben Foods, Inc., owner of the subject patent, as indicated below:

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