

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PACIFIC MARKET INTERNATIONAL, LLC,  
Petitioner,

v.

IGNITE USA, LLC,  
Patent Owner.

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Case IPR2014-00561  
Patent 7,997,442 B2

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Before JOSIAH C. COCKS, MITCHELL G. WEATHERLY, and  
JAMES A. WORTH, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

ORDER

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

### *1. Introduction*

On February 4, 2015, a conference call was conducted between respective counsel for the parties and Judges Cocks, Weatherly, and Worth. Petitioner, Pacific Market International, LLC (“PMI”), was represented by Joel Beres and Kelly Hollowell. Patent Owner, Ignite USA, LLC (“Ignite”) was represented by Warren Thomas. The purpose of the call was to discuss Ignite’s request that it be authorized to file six video excerpts of the deposition testimony of PMI’s expert witness, Aron Dahlgren, as a part of its Patent Owner Response. During the call, PMI indicated that it did not oppose Ignite’s request with respect to two of the video excerpts, but did oppose with respect to four of the video excerpts.

### *2. Discussion*

Pursuant to 37 C.F.R. § 42.53(a), “[p]arties may agree to video-recorded testimony, but may not submit such testimony without prior authorization of the Board.” During the call, Ignite indicated that the entry of the two excerpts for which PMI does not oppose are visual demonstrations by Mr. Dahlgren that are not reflected in the written transcript. Ignite also indicated it believes that the four excerpts whose entry is opposed would be helpful to the panel in assessing Mr. Dahlgren’s demeanor and his credibility. Ignite represented that the total temporal length of the six video excerpts is generally about 13 minutes.

PMI urged that the entry of the four video excerpts in dispute generally would cause delay in the proceeding, and consideration of such excerpts may waste the panel’s time. When queried by the panel in connection with the nature of the delay, PMI indicated that it did not believe

that submission of limited video testimony would unduly interfere with the schedule for this *inter partes* proceeding.

After conferring, the panel determined that because it may be helpful in reaching a final determination in this proceeding it authorizes entry of the six pertinent video excerpts discussed by Ignite. The panel is mindful that PMI also may wish to have additional video excerpts of Mr. Dahlgren's testimony entered into the record as a part of any Reply to the Patent Owner's Response. Provided that any such video excerpts are no greater than 15 minutes, PMI is authorized to submit such testimony in support of its Reply to the Patent Owner's Response.

During the call, the parties stipulated to a two-day extension of DUE DATES 1 and 2. As noted in the Scheduling Order, the parties may stipulate to changes in DUE DATES 1–5. Paper 10, 1. The parties shall submit promptly a stipulation in accordance with the agreement reached during the call.

### 3. Order

It is

ORDERED that Ignite is authorized to submit the noted six video excerpts of Mr. Aron Dahlgren's deposition testimony, which have been represented to be approximately 13 minutes in length, as exhibits in this proceeding along with its Patent Owner Response;<sup>1</sup>

FURTHER ORDERED that PMI is authorized to submit excerpts of Mr. Dahlgren's testimony along with any Reply to the Patent Owner

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<sup>1</sup> Questions as to the mechanics of the entry of the video testimony as exhibits in this proceeding should be directed to the Board's administrative support staff.

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Response, provided that such excerpts do not exceed 15 minutes in length;  
and

FURTHER ORDERED that the parties shall notify the Board promptly of a stipulation to extend DUE DATES 1 and 2 in accordance with the agreement reached during the conference call.

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