

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NINTENDO OF AMERICA INC. and NINTENDO CO., LTD.,
Petitioner,

v.

ILIFE TECHNOLOGIES,
Patent Owner.

Case IPR2015-00106 (Patent 6,703,939 B2)
Case IPR2015-00109 (Patent 6,864,796 B2)
Case IPR2015-00112 (Patent 7,095,331 B2)
Case IPR2015-00115 (Patent 7,479,890 B2)¹

Before JACQUELINE WRIGHT BONILLA, MICHELLE R. OSINSKI, and
HYUN J. JUNG, *Administrative Patent Judges*.

OSINSKI, *Administrative Patent Judge*.

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

¹ This Order addresses issues pertinent to all four cases. Therefore, we exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

Case IPR2015-00106 (Patent 6,703,939 B2)
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In an email dated November 25, 2015, Patent Owner requested a conference call with the Board to seek leave to file up to four pages of additional briefing to address the construction of the claim terms:

(1) “communications device” in IPR2015-00109; and (2) “relative to a three dimensional frame of reference” in IPR2015-00106, IPR2015-00112, and IPR2015-00115.

The panel has considered Patent Owner’s request, and a conference is not necessary. We are persuaded that additional briefing of the identified claim construction issues by Patent Owner will be helpful to the panel in rendering its Final Written Decisions.

Under the particular circumstances of these proceedings, we authorize Patent Owner to file a sur-reply to Petitioner’s Reply Brief in each of the above-referenced proceedings. In particular, Patent Owner is authorized to file: (1) a first sur-reply that addresses the construction of the term “communications device” in connection with the challenged patent in IPR2015-00109; and (2) a second sur-reply that addresses the construction of the term “relative to a three dimensional frame of reference” in connection with the challenged patents in each of IPR2015-00106, IPR2015-00112, and IPR2015-00115. The second sur-reply should be identical for each of IPR2015-00106, IPR2015-00112, and IPR2015-00115. The first and second sur-replies are limited to the identified claim construction issues. Any sur-reply filed by Patent Owner shall not repeat arguments previously made in its Patent Owner Responses nor argue any other issue in these proceedings.

Case IPR2015-00106 (Patent 6,703,939 B2)
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The total number of pages for the two sur-replies is limited to four (4) pages. Patent Owner is given discretion to determine how it will divide its total of four (4) pages between the first and second sur-replies. The first and second sur-replies should be filed within five (5) business days of the issuance of this Order.

Petitioner is not authorized to file a response to the sur-replies as Petitioner has addressed the identified claim construction issues in its Petitioner Reply in each of the proceedings.

It is

ORDERED that Patent Owner is authorized to file, within five (5) business days of the issuance of this Order, a first sur-reply addressing the construction of the term “communications device” in IPR2015-00109; and a second sur-reply addressing the construction of the term “relative to a three dimensional frame of reference” in PR2015-00106, IPR2015-00112, and IPR2015-00115, the second sur-reply being identical in each of IPR2015-00106, IPR2015-00112, and IPR2015-00115, and the total number of pages for both the first and second sur-replies together not exceeding four (4) pages; and

FURTHER ORDERED that no response to the sur-replies is authorized.

Case IPR2015-00106 (Patent 6,703,939 B2)
Case IPR2015-00109 (Patent 6,864,796 B2)
Case IPR2015-00112 (Patent 7,095,331 B2)
Case IPR2015-00115 (Patent 7,479,890 B2)

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