

**Before the
Federal Communications Commission
WASHINGTON, D.C. 20554**

In the Matter of)
)
VIZIO, Inc.)
)
vs.)
)
Funai Electric Co., Ltd. and Funai Corporation, Inc.)
)

ORDER

Opposition Due: March 13, 2009

Adopted: February 27, 2009

Released: February 27, 2009

By the Chief, Media Bureau:

1. On February 20, 2009, VIZIO, Inc. (“VIZIO”) filed a “Request for Temporary Relief” alleging that Funai Electronic Co., Ltd. and Funai Corporation, Inc. (collectively, “Funai”) “demands a flat rate license fee of five dollars per television” for the rights to use a patent used in the Advanced Television Systems Committee (“ATSC”) standard for digital television broadcasting.¹ VIZIO asserts that Funai’s licensing fee is “unreasonable on its face,” and violates the Commission’s “reasonable and non-discriminatory” licensing requirements.² Accordingly, VIZIO asks the Commission to order Funai to “moderate its five dollar demand for a single ATSC patent pending a decision on the” petition filed by the Coalition United to Terminate Financial Abuses of the Television Transition LLC (the “CUT FATT” petition).³

2. On February 24, 2009, Funai filed a “Motion for Consolidation or, Alternatively, Extension of Time,” requesting in part that the Commission consolidate the *VIZIO Petition* into the CUT FATT petition proceeding.⁴ Funai alleges that the *VIZIO Petition* is an “attempt to trigger the substantially shortened pleading cycle under Section 1.45(d) of the Commission’s rules,” and is inappropriate in light of the fact that the temporary relief VIZIO seeks would not preserve the status quo.⁵ Funai also asserts

¹ VIZIO, Inc. Request for Temporary Relief at 7 (filed Feb. 20, 2009) (“*VIZIO Petition*”).

² *Id.* at 8 (citing *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 11 FCC Rcd 17771 (1996)).

³ *VIZIO Petition* at 8. See *Petition for Rulemaking and Request for Declaratory Ruling Filed by the Coalition United To Terminate Financial Abuses of the Television Transition LLC*, Public Notice, DA 09-439 (Feb. 25, 2009). VIZIO seeks this interim relief due to an International Trade Commission (“ITC”) determination that will be issued on or about April 10, 2009, which could bar VIZIO from importing televisions into the United States unless it pays the licensing fees to Funai. *VIZIO Petition* at 10.

⁴ Funai Motion for Consolidation or, Alternatively, Extension of Time (filed Feb. 24, 2009) (“*Funai Motion*”).

⁵ *Id.* at 2.

that the *VIZIO Petition* “raises the same issues and seeks similar relief” as the CUT FATT petition.⁶ Therefore, Funai encourages the Commission to consolidate the petition with the CUT FATT petition in a single proceeding. Alternatively, Funai seeks an extension of time until March 13, 2009 to file an opposition to the *VIZIO Petition*. Funai asserts that this extension of time is brief and would permit “Funai to provide a complete response to the numerous complex claims and issues raised by *VIZIO*,” given the logistical difficulties related to the “substantial 14-hour time difference between [Funai’s corporate headquarters] and its regulatory counsel.”⁷

3. On February 26, 2009, *VIZIO* filed an opposition to the *Funai Motion*.⁸ *VIZIO* contends that the relief it seeks would preserve the status quo, as a grant of the *VIZIO Petition* would allow *VIZIO* to continue to sell television sets in the United States.⁹ *VIZIO* asserts that its request does not seek adoption of a new rule or policy, but rather asks the Commission to require Funai to conform to reasonable and non-discriminatory licensing terms.¹⁰

4. We find that there is good cause to grant Funai’s request for a limited extension of time to file an opposition to the *VIZIO Petition*. Given the complex issues regarding patent license fees and the substantial time difference between Funai’s corporate headquarters and its regulatory counsel, we believe that extending the deadline to file an opposition to March 13, 2009 is appropriate. We therefore extend by two weeks the deadline to file an opposition in this proceeding to March 13, 2009.¹¹

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), and Sections 0.61 and 0.283 of the Commission’s rules, 47 C.F.R. §§ 0.61 and 0.283, the Motion for Extension of Time filed by Funai Electronic Co., Ltd. and Funai Corporation, Inc. **IS GRANTED**.

FEDERAL COMMUNICATIONS COMMISSION

Monica Shah Desai
Chief, Media Bureau

⁶ *Id.* at 3.

⁷ *Id.* at 4-5.

⁸ *VIZIO* Opposition to Motion for Consolidation or, Alternatively, Extension of Time (filed Feb. 26, 2009) (“*Opposition*”). Section 1.45(d) of the Commission’s Rules prohibits the submission of replies to oppositions. *See* 47 C.F.R. § 1.45(d). Given that the *Opposition* is a response to a motion rather than a response to an opposition, we will consider the *Opposition*.

⁹ *Opposition* at 1-2.

¹⁰ *Id.* at 3.

¹¹ We take no position on whether *Vizio*’s request properly invokes the provisions of Section 1.45(d) of our rules, 47 C.F.R. § 1.45(d), and our action here should not be taken to imply otherwise.