

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE INC. and APPLE INC.,  
Petitioners,

v.

CONTENTGUARD HOLDINGS, INC.,  
Patent Owner.

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Case CBM2015-00040<sup>1</sup>  
Patent 7,774,280 B2

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Before MICHAEL R. ZECHER, BENJAMIN D. M. WOOD, and  
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

ORDER  
Oral Argument  
*35 U.S.C. 326(a)(10) and 37 C.F.R. § 42.70*

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<sup>1</sup> Case CBM2015-00160 has been joined with this proceeding.

On June 24, 2015, we instituted a covered business method patent review only as to claims 1, 5, and 11 (“the challenged claims”) of U.S. Patent No. 7,774,280 B2. Paper 9, 43. Both parties requested an oral argument pursuant to 37 C.F.R. § 42.70(a). Papers 26, 27. The parties’ requests are *granted*.

Petitioners, Google Incorporated and Apple Incorporated (collectively, “Petitioners”), requests that each party be given sixty (60) minutes of oral argument time. Paper 26, 2. Patent Owner, ContentGuard Holdings Incorporated (“ContentGuard”), also requests that each party be given sixty (60) minutes of oral argument time. Paper 27, 1. We have reviewed the issues that the parties intend to address during the hearing (Paper 26, 2; Paper 27, 1), but because this proceeding involves just three claims and a contingent Motion to Amend, one and a half hours of oral argument time, in total, should be more than sufficient to address these issues. Accordingly, each party will have forty-five (45) minutes of total time to present its arguments.

Petitioners bear the ultimate burden of proof that the challenged claims are unpatentable based on the grounds of unpatentability (“grounds”) instituted in this proceeding. 35 U.S.C. § 326(e). ContentGuard, however, bears the burden of proof to establish that it is entitled to the relief requested in its contingent Motion to Amend. 37 C.F.R. § 42.20(c). Petitioners, therefore, will proceed first to present their case as to the challenged claims and the grounds instituted in this proceeding. Petitioners may reserve rebuttal time. Thereafter, ContentGuard will respond to Petitioners’ case, as well as present its case regarding its contingent Motion to Amend. ContentGuard may reserve rebuttal time to address the contingent Motion to Amend only. Petitioners then will make use of their rebuttal time to respond to ContentGuard’s case, as well as present their opposition to the

contingent Motion to Amend. Finally, ContentGuard will make use of its rebuttal time to respond to Petitioners' opposition to the contingent Motion to Amend.

**Please note the time and location of the hearing.** The hearing will commence at 1:20 PM CST on Wednesday, February 24, 2016, in Southern Methodist University ("SMU") Dedman School of Law, Hillcrest Classroom, Underwood Law Library, 6550 Hillcrest Avenue, Dallas, TX 75275-0354.<sup>2</sup> The hearing will be open to the public as part of the February 24, 2016, "PTAB/TTAB Stadium Tour" to be held at SMU. We will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served no later than five (5) business days before the hearing date. They shall be filed with us no later than three (3) business days prior to the hearing date. The parties must initiate a conference call with us at least two (2) business days prior to the hearing date to resolve any dispute over the propriety of each party's demonstrative exhibits. For guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc., v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118).

We expect lead counsel for each party to be present at the hearing, although any backup counsel may make the actual presentation, in whole or in part. See *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012). If lead counsel for a party is unable to attend the hearing, we should be notified via

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<sup>2</sup> A conference call was held on February 4, 2016, among respective counsel for Petitioners and ContentGuard, and Judges Zecher, Wood, and Braden. During the conference call, we alerted the parties to the new location for the hearing. The parties had no objections.

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a joint telephone conference call no later than two (2) business days prior to the hearing date to discuss the matter.

We take this opportunity to remind the parties that each presenter must identify clearly and specifically each demonstrative exhibit, e.g., by slide or screen number, referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript.

Requests for audio-visual equipment are to be made at least five (5) business days in advance of the hearing date. The request should be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the requests are not received timely, equipment may not be available on the day of the hearing. Should the parties have any questions regarding specific audio-visual equipment, the parties may contact the Board at 571-272-9797.

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