

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, INC.,
SAP AMERICA INC.,
Petitioners,

v.

CLOUDING IP, LLC,
Patent Owner.

Case IPR2013-00586
Case IPR2014-00306
Patent 6,738,799 B2

Before JAMESON LEE, JUSTIN BUSCH, and
RAMA G. ELLURU, *Administrative Patent Judges*.

LEE, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

On September 11, 2014, both Petitioners filed a joint request for oral argument, requesting one hour of oral argument time. Paper 27. Also on September 11, 2014, Patent Owner filed a request for oral argument, requesting one hour of oral argument time. Paper 26. Petitioners previously were ordered to make consolidated filings in this joined proceeding, with Unified Patents Inc. (“Unified”) responsible for the filing, and SAP America Inc. (“SAP”) able to file a short submission indicating only disagreements with the consolidated filing. Paper 17. The oral argument will be conducted in a similar manner. Counsel for Unified will make a consolidated presentation for both Unified and SAP, and counsel for SAP will have a brief opportunity, at the end of each segment of Unified’s presentation, to identify any part of the representation with which SAP does not agree. With that understanding, the requests for oral argument are *granted*.

The request is *granted-in-part*.

Petitioners will have 1 hour of total argument time. Patent Owner also will have 1 hour of total argument time. The oral argument will commence at 2:00 PM Eastern Time, on Thursday, October 16, 2014. The Board will provide a court reporter for the hearing and the reporter’s transcript will constitute the official record of the hearing. The hearing transcript will be entered in the record of IPR2013-00586.

Petitioners bear the ultimate burden of proof that Patent Owner’s patent claims at issue are unpatentable. Patent Owner bears the burden of proof to establish that it is entitled to the relief requested in its motion to amend claims. Therefore, at oral argument, Petitioners will proceed first to present their case with respect to the challenged patent claims and grounds with respect to which the Board instituted trial. Patent Owner will then respond to Petitioners’ argument and also argue in support of its motion to amend claims.

Each side may reserve time to respond to arguments presented by the other side with some limitations. To the extent that Petitioners reserve time, they may respond to Patent Owner's presentation on all matters. To the extent that Patent Owner reserves time, it may respond only to Petitioners' arguments opposing the motion to amend claims.

The hearing will be open to the public for in-person attendance, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia 22314. In-person attendance will be accommodated on a first-come, first-serve basis. At least one Judge will be attending the oral argument from a remote location by use of audio/video communication equipment.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days before the hearing. They shall be filed with the Board three business days prior to the hearing and the parties must initiate a conference call with the Board at least two business days prior to the hearing 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 Paper 118 in *CBS Interactive Inc. v. Wireless Sciences LLC*, IPR2013-00033 (PTAB October 23, 2013). No live testimony from any witness will be taken at the oral argument.

The Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for any party will not be in attendance at oral hearing, the Board should be notified via a joint telephone conference call no later than two business days prior to the oral hearing to discuss the matter.

Requests for audio-visual equipment are to be made 5 days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

IPR2013-00586 and IPR2014-00306
Patent 6,738,799 B2

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