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571-272-7822

Paper No. 45
Date Entered: July 20, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC., and
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,
Petitioners,

v.

BLACK HILLS MEDIA, LLC,
Patent Owner.

Case IPR2014-00717
Case IPR2015-00335
Patent 6,108,686

Before BRIAN J. McNAMARA, DAVID C. McKONE, and FRANCES L. IPPOLITO, *Administrative Patent Judges*

McNAMARA, *Administrative Patent Judge*.

ORDER
Trial Hearing
37C.F.R. § 42.70

A trial in IPR2014-00717 was instituted on November 4, 2014. Paper 18. A trial was instituted in IPR2015-00335 and joined to this proceeding on January 28, 2015. Paper 32. A Scheduling Order issued on December 18, 2014 set the date for oral hearing to July 28, 2015, if hearing is requested by the parties and granted by the Board. Paper 27. ("Scheduling Order"). Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. The request is GRANTED.

Each party will have 40 minutes of total argument time. Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, "Petitioner") bears the ultimate burden of proof that the claims at issue in these reviews are unpatentable. Therefore, at oral hearing Petitioner will proceed first to present its case with regard to the challenged claims on which basis we instituted trial. Thereafter, Black Hills Media, LLC ("Patent Owner") will argue its opposition to Petitioner's case. Petitioner may then use any time Petitioner reserved to rebut to Patent Owner's opposition. There are no other motions to be argued separately during the hearing.

There is a strong public policy interest in making all information presented in these proceedings public, as the review determines the patentability of claims in an issued patent and thus affects the rights of the public. This policy is reflected in part, for example, in 35 U.S.C. § 316(a)(1) and 35 U.S. C. § 326(a)(1), which provide that the file of any *inter partes* review or post grant review be made available to the public, except that any petition or document filed with the intent that it be sealed shall, if accompanied by a motion to seal, be treated as sealed pending the outcome of the ruling on the motion. There are no motions to seal in

the present proceeding. Accordingly, the Board exercises its discretion to make the oral hearing publically available via in-person attendance.

Specifically, the hearing will commence at 1:30 PM ET, on July 28, 2015, on the ninth floor of Madison Building East, 600 Dulaney Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance. In-person attendance will be accommodated on a first come first serve basis.

The Board 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 five business days before the hearing. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (Oct. 23, 2013), regarding the appropriate content of demonstrative exhibits. Any issue regarding demonstrative exhibits should be resolved at least two days prior to the hearing by way of a joint telephone conference call to the Board. The parties are responsible for requesting such a conference sufficiently in advance of the hearing to accommodate this requirement. Any objection to demonstrative exhibits that is not timely presented will be considered waived. Demonstratives should be filed at the Board no later than two days before the hearing. A hard copy of the demonstratives should be provided to the court reporter at the hearing.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. **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.** The parties are reminded that the 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. The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location and that if a demonstrative is not filed or otherwise made fully available or visible to the judge presiding over the hearing remotely, that demonstrative will not be considered. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at (571)272-9797.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, lead or backup counsel may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

PETITIONER: (via electronic transmission)

Andrea Reister
areister@cov.com

Gregory Discher
gdischer@cov.com

Doris Johnson Hines
Dori.hines@finnegan.com

Jonathan R. Stroud
Jonathan.stroud@finnegan.com

PATENT OWNER: (via electronic transmission)

Andrew Crain
Andrew.crain@thomashorstemeyer.com

Thomas Engellenner
engellennert@pepperlaw.com

Vivek Ganti
Vivek.ganti@thomashorstemeyer.com

Robert Gravois
Robert.gravois@thomashorstemeyer.com

Kenneth Knox
Kenny.knox@thomashorstemeyer.com