

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLAID TECHNOLOGIES, INC.,
Petitioner,

v.

YODLEE, INC.,
Patent Owner.

Case IPR2016-00273
Patent 6,317,783 B1

Before SALLY C. MEDLEY, MICHAEL R. ZECHER, and
JOHN A. HUDALLA, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5(a)

A conference call in the above proceeding was held on October 26, 2016, among respective counsel for Petitioner and Patent Owner, and Judges Medley, Zecher, and Hudalla. The call was requested by Petitioner to discuss its request to change the date of the oral hearing (i.e., “DUE DATE 7”) in this case, which is presently scheduled for March 7, 2017. Paper 11, 6. Petitioner’s counsel noted that the trial in the related district court litigation is scheduled for March 13–17, 2017, so counsel expressed

concern that the oral hearing would overlap with preparations for trial. Patent Owner does not oppose Petitioner's request to move the oral hearing, but Patent Owner did not join Petitioner's request.

We do not find good cause to grant Petitioner's request. Importantly, there is no actual conflict between the date of the oral hearing in this case and the dates of trial in the related district court litigation. Furthermore, although we acknowledge that Petitioner's lead counsel here, Brian M. Buroker, is also lead counsel in the district court litigation, and that he will undoubtedly be busy during that time, several other lawyers are appearing with Mr. Buroker in that litigation. In addition, Petitioner has back-up counsel in this case, Omar F. Amin, who can appear on Petitioner's behalf at the oral hearing. *See* 37 C.F.R. § 42.10(a). Finally, our own scheduling concerns weigh against Petitioner's request. *See Bio-Rad Labs., Inc. v. GE Healthcare Bio-Sciences AB*, Case IPR2015-01826, slip. op. at 3–4 (PTAB Oct. 21, 2016) (Paper 34) (discussing the difficulties of rescheduling a hearing in light of the Judges' schedules and the Board's limited number of hearing rooms).

As an accommodation to Petitioner, and based on the particular circumstances presented here, we hereby excuse Mr. Buroker from the expectation that he will be present for and participate in the oral hearing on March 7, 2017. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012) (stating "that lead counsel will . . . participate in all hearings . . . with the Board").

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In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's request to change the oral hearing date in this case is *denied*; and

FURTHER ORDERED that Petitioner's lead counsel, Brian M. Buroker, is excused from the expectation that he will be present for and participate in the oral hearing in this case.

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PETITIONER:

Brian M. Buroker

Omar F. Amin

GIBSON, DUNN & CRUTCHER LLP

bburoker@gibsondunn.com

oamin@gibsondunn.com

PATENT OWNER:

David Hoffman

David M. Barkan

Matthew McCullough

FISH & RICHARDSON P.C.

hoffman@fr.com

barkan@fr.com

mccullough@fr.com

IPR12233-0046IP1@fr.com