

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RUBICON COMMUNICATIONS, LP,  
Petitioner,

v.

LEGO A/S,  
Patent Owner.

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Case IPR2016-01187  
Patent 8,894,066 B2

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Before SCOTT A. DANIELS, NEIL T. POWELL, and  
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

ORDER  
Trial Hearing  
*35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70*

IPR2016-01187  
Patent 8,894,066 B2

Petitioner and Patent Owner requested a hearing in this proceeding, pursuant to 37 C.F.R. § 42.70(a). *See* Papers 77, 78.

The parties' requests for a hearing are *granted*. The hearing will commence at 1:00 p.m. Eastern Time on October 11, 2017. Petitioner will have 30 minutes of total argument time. Patent Owner will also have 30 minutes of total argument time. The parties may use their allotted argument time as they choose, provided that the order of arguments presented will be as follows.

Because Petitioner bears the ultimate burden of proof (*see* 35 U.S.C. § 316(e)), Petitioner will proceed first to present its case with regard to the challenged claims on which basis we instituted trial. Thereafter, Patent Owner may respond to Petitioner's arguments. Subsequently, Petitioner may use any unused portion of its 30 minutes to respond to Patent Owner's arguments.

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. In-person attendance at the hearing will be accommodated on a first-come, first-served basis. If the parties have any concern about disclosing confidential information, they are to contact the Board no later than two days prior to the hearing to discuss the matter. The Board will provide a court reporter for the hearing, and the reporter's transcripts will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days prior to the hearing. The parties shall confer with each other regarding any objections to demonstrative exhibits in each proceeding, and email demonstrative exhibits to the Board at least two business days prior to the hearing. For any issue that cannot be resolved after conferring

IPR2016-01187

Patent 8,894,066 B2

with the opposing party, the parties may file jointly a one-page list of objections at least two business days prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one sentence) of the reason for each objection. No argument or further explanation is permitted. We will consider the objections and schedule a conference call if necessary. Otherwise, we will reserve ruling on the objections until the hearing or after the hearing. Any objection to demonstrative exhibits that is not presented timely will be considered waived.

Demonstrative exhibits are not evidence, but merely a visual aid for use at the hearing. Demonstrative exhibits may not introduce new evidence or arguments. Instead, demonstrative exhibits should cite to evidence already in the record. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, slip op. at 2–5 (PTAB Oct. 23, 2013) (Paper 118), regarding the appropriate content of demonstrative exhibits. 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 transcripts. The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location.

The Board expects lead counsel for Petitioner and Patent Owner to be present at the hearing, although any back-up counsel may make the actual presentation, in whole or in part. If lead counsel for a party will not be in attendance at the hearing, the Board should be notified via a joint conference call no later than two days prior to the hearing to discuss the matter.

IPR2016-01187  
Patent 8,894,066 B2

Requests for audio-visual equipment at the hearing are to be made five days in advance of the hearing date. The requests must be sent to *Trials@uspto.gov*. If the requests are not received timely, equipment may not be available on the day of the hearing. Further, 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.

IPR2016-01187  
Patent 8,894,066 B2

PETITIONER:

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Anthony Petro  
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