UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YMAX CORPORATION,

Petitioner

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01258
Patent Number: 7,764,777

PATENT OWNER'S REQUEST FOR ORAL ARGUMENT

Patent Owner Focal IP, LLC hereby requests oral argument pursuant to 37 C.F.R. §42.70. Oral argument is currently scheduled for September 19, 2017 against YMax Corporation ("Petitioner"). In Section I below, Patent Owner respectfully presents a proposal to the Board for consolidating and scheduling the oral hearings associated with the nine proceedings involving three separate petitioner groups. In Section II below, Patent Owner respectfully requests oral argument on the issues listed.

Patent Owner also requests a projector that is capable of connecting to a laptop computer.

Further, Patent Owner respectfully notifies the Board that it intends to have multiple attorneys argue separate issues (e.g., claim construction, responses to the petitions, and motions to amend).

I. PATENT OWNER'S PROPOSAL FOR CONSOLIDATING THE PROCEEDINGS

Patent Owner proposes dividing the proceedings into separate consolidated hearings involving the three Petitioner Groups accordingly:

- Consolidated Group 1 (BHN, WOW, Knology, Birch) – IPR2016-01259, 01261, 01262, and 01263 ("BHN group");
- Consolidated Group 2 (Cisco) – IPR2016-01254 and 01257 ("Cisco group"); and

- Consolidated Group 3 (Ymax) – IPR2016-01256, 01258, and 01260 ("Ymax group").

Below, please find Patent Owner's Proposal to the Board for efficiently hearing oral arguments for all nine of the proceedings:

A. September 19, 2017 (morning):

Patent Owner proposes that the Board schedule a consolidated hearing with all three Petitioner groups regarding the common disclaimer issues and claim construction issues associated with the related terms/phrases regarding a controller/processing system, etc. coupled to/in communication with a switching facility/tandem switch.

30 minutes for Patent Owner and 30 minutes for Petitioners as a group.

B. September 19, 2017 (before lunch)

Oral hearing for the BHN group where each side has 60 minutes.

C. September 19, 2017 (afternoon)

Oral hearing for the Cisco group where each side has 60 minutes. Patent Owner proposes holding this hearing on the same day as BHN group due to overlapping attorney representation and issues regarding prior art.

D. September 20, 2017 (morning)

Oral hearing for the Ymax group where each side has 60 minutes.

To hear all of the oral arguments in a single day for all nine proceedings that involve dozens of prior art references, claim constructions issues, and five motions to amend would be unfairly prejudicial to Patent Owner and violate its due process rights. It is prejudicial to Patent Owner for its attorneys to argue from sunrise to sunset while each petitioner group has the advantage of bringing in a fresh set of attorneys for each new consolidated hearing involving separate evidentiary records and arguments. Further, all of the parties submitted a joint agreement to the Board on August 10, 2017 where the parties agreed the Ymax oral arguments should be scheduled on a separate day, which is practical given that there are only so many hours in a day to argue nine IPR proceedings having numerous grounds and claim construction issues, in addition to five motions to amend involving approximately 15 new prior art references.

Further, Patent Owner proposes holding a separate consolidated hearing for all nine proceedings regarding the common claim construction and disclaimer issues associated with the related terms and phrases surrounding the limitation of a controller/processing system, etc. being coupled to or in communication with a switching facility/tandem switch, which would reduce the total time for each of the three main consolidated hearings per Petitioner group by one hour based on the competing proposals submitted by the Petitioner groups and Patent Owner.

District courts routinely and customarily hold a joint claim construction hearing involving multiple parties. To achieve judicial economy and consistent outcomes, it makes sense to hold a single claim construction hearing. Otherwise, the Board will unnecessarily hear the same or similar arguments repeatedly in addition to creating different evidentiary records which could lead to inconsistent results.

If the Board determines that it will not hold a consolidated joint hearing on the aforementioned claim construction/disclaimer issue, then Patent Owner proposes that each side in each oral hearing receives 90 minutes, where claim construction would be argued repeatedly in each of the three hearings. Petitioner groups that are scheduled to argue after the initial hearing are able to improperly and unfairly gain a strategic advantage of revising their oral arguments based on any intelligence it may have gleaned from an earlier hearing. Having separate hearings on the same common issue puts Patent Owner at a strategic disadvantage, which the Board can easily prevent by holding a consolidated joint hearing on this common issue or by closing off the hearings to the public.

Patent Owner believes that Petitioner bears the burden of showing that Patent Owner's proposed amended claims are unpatentable. However, if the Board continues to place the burden on Patent Owner to show that its proposed amended claims are patentable, Patent Owner respectfully requests rebuttal time regarding the

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.