

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

I.M.L. SLU, and DUODECAD IT SERVICES LUXEMBOURG S.A R.L.,
ACCRETIVE TECHNOLOGY GROUP, INC., ICF TECHNOLOGY, INC.,
and RISER APPS LLC1,
Petitioner,

v.

WAG ACQUISITION, LLC,
Patent Owner.

Case IPR2016-01656 (Patent 8,122,141 B2)
Case IPR2016-01658 (Patent 8,364,839 B2)

Record of Oral Hearing
Held: November 30, 2017

Before TREVOR M. JEFFERSON, BRIAN J. McNAMARA, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

Case IPR2016-01656 (Patent 8,122,141 B2)
Case IPR2016-01658 (Patent 8,364,839 B2)

APPEARANCES:

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The above-entitled matter came on for hearing on Thursday,
November 30, 2017, commencing at 1:00 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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P R O C E E D I N G S

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JUDGE McNAMARA: Good afternoon, everyone. Apparently there was a little bit of confusion about the time for this hearing. It was set for 1:00, and there was some confusion as to whether it was 1:00 or 1:30. So I just wanted to let you know that if anyone does arrive up until 1:30, we will admit them to the extent that the room can accommodate that number of people.

This is the oral hearing in IPR2016-01656 and 01658. The parties in 01656 are I.M.L. SLU and is it Wag or W-A-G?

MR. ABRAMSON: WAG.

JUDGE McNAMARA: WAG Acquisition. And the parties in 2016-01658 are I.M.L. SLU, DuoDecad, Accretive Technology Group, ICF Technology and Riser Apps as petitioners and WAG, again, as the patent owner. This is a consolidated hearing. And we have a lot of issues before us today, so let me tell you how I think we ought to do this. I think we'll do it but first we are going to have two transcripts. The first transcript will be the hearing on the merits as to the petitioner's challenge. And then we'll have a transcript on the motions that we are going to address.

So the first thing we are going to do is to do the hearing on the merits. Are there any motions to amend pending before us in either of these cases? I didn't think so. I did notice something in the trial order that said something about a motion to amend, but there are no motions to amend. So we'll hear first from the petitioner and then the patent owner, and then we'll

1 hear from the petitioner in rebuttal. And the total amount of time that each
2 side will have is 45 minutes.

3 After that we will then move on to the motions that we have in
4 front of us. The first motion that we'll hear is WAG's motion for discovery
5 from I.M.L. of information concerning real parties in interest. Then we will
6 hear I.M.L.'s motion for discovery from WAG concerning its standing as a
7 patent owner in this proceeding. And last, which is an issue that came up
8 yesterday, we will hear argument concerning I.M.L.'s request for
9 authorization to file a motion to withdraw the petition.

10 Is everybody clear on how we are going to do this? All right.
11 Then we will begin with the hearing on the merits and we'll hear from the
12 petitioner first. If you could please, by the way, introduce everybody who is
13 here on your behalf today.

14 MS. JACOB: Your Honor, I'm Beth Jacob of Kelley, Drye &
15 Warren for the petitioner, I.M.L. SLU. And with me is Steve Yovits, also of
16 Kelley, Drye & Warren, also for petitioner, I.M.L. SLU.

17 There's one clarification. This perhaps goes to the second part
18 instead of the first part, but I did want to inform the Court a clarification that
19 with respect to IPR2016-01658 we are seeking permission to move to
20 terminate I.M.L. SLU's participation in it, but we are not, of course, moving
21 on behalf of the other parties. So that was poorly phrased when we said
22 withdraw the petition, that was poorly phrased. I apologize for that. It is
23 just our own participation. Not the others.

24 JUDGE McNAMARA: I understood. Thank you.

1 MS. JACOB: And in light of our request that we be permitted to
2 withdraw our participation in both petitions, we do not have any affirmative
3 argument on the merits.

4 JUDGE McNAMARA: So you're just going to stand on the
5 papers?

6 MS. JACOB: Yes, Your Honor.

7 JUDGE McNAMARA: Then there really is no need to have a
8 hearing on the opposition to that as well. So we can then move on to the
9 discovery motions.

10 MR. ABRAMSON: Your Honor, they are opting not to present
11 argument. Just to be clear, this is the 1658, which is the '839 patent.

12 JUDGE BOUCHER: I'm sorry, I'm not sure your microphone is
13 on. I can't hear what you are saying.

14 MR. ABRAMSON: The petitioners in 1658, which my notes
15 indicate is the '839 patent, are opting not to present oral argument on the
16 merits on that petition.

17 JUDGE McNAMARA: I believe that's true for the 1656 as well; is
18 that right?

19 MS. JACOB: That's correct on both petitions.

20 MR. ABRAMSON: Okay. And we have a series of briefs. We
21 thought we would have an opportunity to address the merits. I would like to
22 have the opportunity to do that.

23 JUDGE McNAMARA: Is there some particular narrow issue you
24 want to address on the merits that is not adequately addressed in your briefs?

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