UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FITBIT, INC.,
Petitioner

v.

VALENCELL, INC.,
Patent Owner.

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IPR2017-00319
Patent 8,923,941B2

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Record of Oral Hearing
Held: December 11, 2020
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Before BRIAN J. MCNAMARA, JAMES B. ARPIN, and
SHEILA F. MCSHANE, *Administrative Patent Judges.*

IPR2017-00319
Patent 8,923,941B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

    SAM STAKE, ESQ.
    Quinn Emanuel Urquart & Sullivan, LLP
    50 California Street
    22nd Floor
    San Francisco, California 94111
    415-875-6600
    samstake@quinnemanuel.com

ON BEHALF OF THE PATENT OWNER:

    JEFFREY R. BRAGALONE, ESQ.
    Bragalone Conroy, PC
    2200 Ross Avenue
    Suite 4500 W
    Dallas, Texas 75201
    214-785-6671
    jbragalone@bcpc-law.com

    The above-entitled matter came on for hearing on Friday,
December 11, 2020, commencing at 11:02 a.m. EST, via Teleconference.

1	P-R-O-C-E-E-D-I-N-G-S
2	11:02 a.m.
3	JUDGE ARPIN: Good morning. This is a telephonic hearing for
4	the remand of IPR 2017 00319. I am Judge Arpin. I am joined today by
5	Judge McNamara and Judge McShane. We have a court reporter on the
6	line.
7	And I'd like to address the court reporter first. This will be a
8	relatively brief hearing. Please do not interrupt the presenters to ask
9	questions, unless the questions are essential to the clarity and integrity of the
10	record. At the end of the hearing I will try to remember to ask you if you
11	require any clarification from the presenters. Please save any non-essential
12	questions until then.
13	Is that clear, Court Reporter?
14	COURT REPORTER: Your Honor, it is.
15	JUDGE ARPIN: Second, I would like to ask the parties for a roll
16	call. I'd like to ask you to please state the name of any presenter at today's
17	hearing. Spell that person's name, and give your firm's name and address.
18	Petitioner?
19	MR. STAKE: Good morning, Your Honor. This is Sam Stake
20	from Quinn Emanuel, for the Petitioner Fitbit, Inc. And this is Quinn
21	Emanuel at 50 California Street.
22	JUDGE ARPIN: Please spell your name, Mr. Stake.
23	MR. STAKE: It's S-A-M, and then, S-T-A-K-E, and we're at 50
24	California Street in San Francisco.

1   JUDGE ARPIN: Thank you very much.   Sorry to get you up so
2 early this morning.
3   Patent owner, would you please identify your presenters for today's
4 hearing?
5   MR. BRAGALONE: Good morning, Judge Arpin.   This is Jeff
6 Bragalone, that's B-R-A-G-A-L-O-N-E, and I'm with Bragalone Conroy.
7 And we are located at 2200 Ross, Suite 4500 West, Dallas, Texas.   Zip
8 code is 75201.
9   JUDGE ARPIN: Thank you, Mr. Bragalone.
10   Each party will have 15 minutes to present its case at today's hearing.
11 Because Petitioner bears the burden, Petitioner will go first.   Petitioner may
12 reserve time for rebuttal.   Patent owner will then follow.   If Petitioner
13 reserves time for rebuttal, Petitioner's rebuttal will follow, followed by
14 Patent Owner's rebuttal.
15   If Petitioner does not reserve time for rebuttal, each party will simply
16 have 15 minutes to present its case.   I will try to advise you when you are
17 about ten minutes into your time, and when you are entering whatever time
18 you have reserved for rebuttal.   If the panel asks many questions, we will
19 take that into account in enforcing the clock.   That said, you should keep
20 aware of the clock yourselves.
21   Now, some instructions specific to this hearing.   The Patent Owner
22 has raised objections to Petitioner's briefing, and has submitted a one-page
23 factual listing of those objections.   Petitioner has submitted a one-page
24 factual response.   We have taken those objections under advisement, and
25 will not be ruling on those objections today.

1   For the benefit of the Court Reporter, each presenter should identify

2   himself the first time he speaks.   The judges will try to identify themselves

3   when they ask a question.   Please speak clearly and into your telephone

4   receiver.   Please ensure that you are in a quiet environment.   Please mute

5   your phone when you are not presenting.   And please, do not interrupt the

6   other presenter for any reason.

7   If you have an objection, save it for when it's your turn to present.

8   If you do not have a turn to present, then please make sure that we are aware

9   that you wish to make an objection before we adjourn the hearing.

10   Next, a special instruction with respect to the abbreviation API,

11   when you mean Application Programming Interface, please use that term.

12   When you mean Application Specific Interface, please use that term.   If it's

13   necessary to use the abbreviation API, please make sure you're clear of the

14   context in which you're using it.   The judges will try mightily to do the

15   same.

16   Are there any questions?   Petitioner?

17   MR. STAKE: No, Your Honor, thank you.

18   JUDGE ARPIN: Patent Owner?

19   MR. BRAGALONE: No, Your Honor.   Thank you

20   JUDGE ARPIN: Okay, Petitioner, you have 15 minutes.   Would

21   you like to reserve any time for rebuttal?

22   MR. STAKE: Yes, please.   Could I, please, reserve three

23   minutes?

24   JUDGE ARPIN: Three minutes.   If you will give me one second

25   to set my timer, I'll let you know exactly when you can begin.

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