

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

BLACKBERRY LTD.,
Patent Owner.

Case IPR2017-01619
Case IPR2017-01620
(Patent 8,489,868 B2)

Record of Oral Hearing
Held: September 17, 2018

Before SALLY C. MEDLEY, ROBERT J. WEINSCHENK, and
AARON W. MOORE, *Administrative Patent Judges*.

Case IPR2017-01619
Case IPR2017-01620
(Patent 8,489,868 B2)

APPEARANCES:

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The above-entitled matter came on for hearing on Monday, September 17, 2018, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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1 PROCEEDINGS

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3 JUDGE MOORE: Good afternoon. We're here now for
4 argument in our case number IPR2017-1619 and 2017-1620. It's
5 entitled Google LLC versus Blackberry LTD, and it concerns United
6 States Patent Number 8489868. Would counsel for the parties please
7 introduce yourselves, starting with the Petitioner.

8 MR. CITROEN: Good afternoon, your Honor. My name is
9 Phillip Citroen, appearing on behalf of the Petitioner. Here with me
10 today is Joe Palys and Naveen Modi.

11 MR. DILLON: On behalf of the Patent Owner, my name is
12 Sam Dillon. With me is Sharon Lee and also our lead counsel Ching-
13 Lee Fukuda.

14 JUDGE MOORE: Thank you, welcome to the Board. Per our
15 hearing order, each side will have 90 minutes to argue. The Petitioner
16 will argue first and may reserve rebuttal time. The Patent Owner may
17 not reserve rebuttal time. I will remind the parties that the Petitioner
18 bears the burden of proving any proposition of unpatentability by a
19 preponderance of the evidence.

20 I will also remind the parties that this hearing is open to the
21 public, and a full transcript of it will become part of the record.
22 Please remember to also mention the numbers of the slides as you

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1 refer to them so it's reflected clearly in the record. And with that, I'll
2 invite Petitioner to begin.

3 MR. CITROEN: Good afternoon, your Honor. May it please
4 the Board, my name is Phillip Citroen. As I mentioned, I am here on
5 behalf of the Petitioner. Before I go on, I will reserve about 30
6 minutes for rebuttal. Also, I will be referring to Petitioner's
7 demonstratives. I do have hard copies, if anyone would like a copy,
8 I'm happy to bring it up.

9 MR. DILLON: We're fine, no thank you.

10 MR. CITROEN: Okay. So with that, if we can go to slide 2
11 please. So for the Board's convenience, we've listed the grounds that
12 have been instituted in the 1619 proceeding. If we can go to slide 3,
13 we've also presented here the grounds that were instituted for the 1620
14 proceeding.

15 In our view, based on the evidence that was relied on for
16 purposes of instituting these two proceedings, as well as the additional
17 evidence that is now in the record further supporting Petitioner's
18 positions, we believe that the Board should enter a final written
19 decision in these proceedings canceling the claims at issue based on
20 these grounds. My goal today is to explain why.

21 So we can go to the next slide 4, please. So here we have
22 Independent Claim 1. There's another Independent Claim as well, 76.
23 For purposes of today and these proceedings, it's essentially identical.

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1 The main difference is it's directed to a method instead of a mobile
2 device.

3 The main point that I want to make here is that these claims,
4 while relatively long, describe a simple process which is allowing an
5 application to access a Sensitive API to which access is restricted
6 based on a valid digital signature.

7 It's also important to note that the concepts in this claim
8 related to generating and validating a digital signature and using a
9 public-private key pair was conventional in the art for decades before
10 the 868 patent was issued. So what's left then in these claims is the
11 application of these fundamental concepts in the context of restricting
12 access to APIs on mobile devices. But as the record shows, this was
13 not a new concept at the time.

14 So the Patent Owner, in response, has presented a shotgun
15 approach to these proceedings raising numerous arguments. At the
16 end of the day they all fail, and there's a few reasons I want to
17 highlight up front for that.

18 First of all, a major flaw in Patent Owner's arguments,
19 especially with respect to the 1620 proceeding, is that they ignore
20 what was so well known in the art at the time of the alleged invention.
21 For example, how conventional digital signatures worked, how private
22 keys worked.

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