

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS, INC.,  
Petitioner,

v.

FALL LINE PATENTS, LLC,  
Patent Owner.

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Case IPR2018-00043  
Patent 9,454,748 B2

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Record of Oral Hearing  
Held: December 14, 2018

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Before MICHELLE N. WORMMEESTER, SHEILA F. McSHANE, and  
JOHN R. KENNY, *Administrative Patent Judges*.

Case IPR2018-00043  
Patent 9,454,748 B2

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The above-entitled matter came on for hearing on Friday, December 14, 2018, commencing at 1:02 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 PROCEEDINGS

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3 JUDGE KENNY: Good afternoon. Welcome to the Board. We have  
4 Judge Michelle Wormmeester in the Hearing Room, Judge Sheila McShane  
5 and I, are appearing remotely.

6 Let me remind Counsel that Judge McShane and I can only -- let me  
7 remind Counsel that Judge McShane can only see if you're speaking  
8 standing at the podium.

9 This is the Oral Hearing for IPR 2018-00043. Both sides have 60  
10 minutes of argument time. Let's begin with the introduction of Counsel,  
11 starting with Petitioner, followed by Patent Owner.

12 MR. BAJAJ: My name is Raghav Bajaj for Petitioner, Unified  
13 Patents. With me is: Lead Counsel David O'Brien, as well as David  
14 McCombs and Jonathan Shroud.

15 MR. WATT: Good morning, Your Honors. My name is Terry Watt,  
16 for Fall Line Patents, and I also have Michael Ellis here. I'm Lead Counsel  
17 and Michael Ellis is here with me, and he'll be speaking as well.

18 JUDGE KENNY: Okay, Mr. Bajaj. Do you want to reserve some  
19 time for rebuttal?

20 MR. BAJAJ: Yes, Your Honor. I would like to reserve 20 minutes  
21 for rebuttal.

22 JUDGE KENNY: All right. At the start of each of your oral  
23 arguments, I'd like both parties to address the Petitioner's objections to the  
24 Patent Owner's demonstratives. But let's also start with this understanding:  
25 that the demonstratives are not evidence and are used as visual aids only.

1 Any arguments in evidence that are not in the record will not be  
2 considered by the Panel in rendering the final written decision. Further,  
3 arguments and evidence that were presented in the preliminary response but  
4 not in the Patent Owner response are waived.

5 And as a reminder when you're using demonstratives today, please  
6 refer to the slides by number. Mr. Bajaj, you may begin.

7 MR. BAJAJ: Thank you, Your Honor.

8 JUDGE KENNY: And just as a clarification point. I think we are  
9 having some issues with the clock there, so you may not have a display of  
10 the time but, you know, we are recording it here.

11 MR. BAJAJ: Okay. Understood.

12 JUDGE KENNY: Okay.

13 MR. BAJAJ: So, as Your Honor indicated, the Petitioner has filed  
14 objections to slides 2 through 14, 16 and 39 of Patent Owner's demonstrative  
15 exhibits, those slides contain argument and evidence that were not in the  
16 Patent Owner's response, and as such those slides and any argument from  
17 those slides we feel should be stricken.

18 JUDGE KENNY: So, maybe you can clarify. I take it from your  
19 summation that the Patent Owner doesn't dispute that slides 2 through 14  
20 contain information that wasn't in the Patent Owner's response; right?

21 MR. BAJAJ: That's correct, Your Honor. We had a meet and  
22 conferred with the Opposing Counsel, and they agreed that those slides  
23 contain, as I said, argument and evidence that was not in Patent Owner  
24 response.

25 JUDGE KENNY: All right. But slides 16 and 39, I take it, they do  
26 not agree on that point?

1 MR. BAJAJ: Correct. They do not agree on that point.

2 JUDGE KENNY: Okay. Can you tell me why you believe slides 16  
3 and 39 contain arguments that were not in the Patent Owner's response?

4 MR. BAJAJ: Certainly, Your Honor. Sorry, I didn't mean interrupt  
5 you. So on slide 36 -- I'm sorry -- slide 16, the argument that the purpose of  
6 the invention was to execute tokens without change, that's not an argument  
7 that I saw in the quoted or the referred-to portions of the record. And then as  
8 to slide 39, that argument, that portion of Kari was not cited by the Patent  
9 Owner in its response at any point.

10 So, should I start, Your Honor?

11 JUDGE KENNY: Sure.

12 MR. BAJAJ: So, turning to slide 2, we reproduced challenged claim  
13 19 of the 748 Patent, which we treated as representative in the petition.  
14 Claim 19 is the method citing the number of steps that include -- excuse me --  
15 - receiving a questionnaire from an originating computer, collecting  
16 responses to the questionnaire from a user, and transmitting those responses.

17 And of particular note to the party's arguments and disputes, claim 19  
18 recites that the receiving device is a hand-held computing device with an  
19 integral GPS, and that the questionnaire includes device-independent tokens.

20 So turning to slide 3, Figure 1 depicts a server 24 that communicates  
21 with hand-held computers 28 through 32, the specification notes that hand-  
22 held computers may be different types of devices. And one example, the  
23 specification describes that the server and computers 28 through 32  
24 communicate using the Internet.

25 So, turning to slide 4 on the next few slides we've presented a quick  
26 overview of the prior art that was cited in the petition. On slide 4 the Kari

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