

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2018-00391
Patent 7,647,633 B2

Before THOMAS L. GIANNETTI, MIRIAM L. QUINN, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

QUINN, *Administrative Patent Judge*.

ORDER
Oral Hearing
37 C.F.R. § 42.70(a)

In the above-identified proceeding, we instituted *inter partes* review (Paper 7) and issued a Scheduling Order (Paper 8), which sets an oral hearing date to March 6, 2019, if oral hearing is requested by either party and granted by the Board. Pursuant to 37 C.F.R. § 42.70. Our Scheduling Order further identified the Texas Regional Office as one of the possible locations for the hearing. Paper 8, 4. Both parties requested an oral hearing in this case. Papers 20, 21. The request for oral argument is *granted*.

The hearing for this case will commence at **12 PM Central Time**, on **March 6, 2019**, and will be conducted at **the Texas Regional Office of the United States Patent and Trademark Office, 207 South Houston St., Suite 159, Dallas, Texas 75202**.¹ The parties are advised that the hearing room has limited seating. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come first-served basis.

Each party will have forty five (45) minutes of total time to present arguments for this proceeding. Because Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable, Petitioner will proceed first to present its case as to the challenged claims and instituted grounds of unpatentability in this proceeding, and may reserve a small portion of its time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's case. After that, Petitioner may use the rest of its time for its rebuttal, responding to Patent Owner's specific arguments presented at the oral hearing. If Patent Owner has reserved time for rebuttal and up to the time remaining, Patent

¹ See <https://www.uspto.gov/about-us/uspto-locations/dallas-tx/dallas-texas> for additional information.

Owner may present sur-rebuttal argument. No live testimony from any witness will be taken at the oral hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days prior to the hearing. The parties shall confer with each other regarding any objections to demonstrative exhibits, and file demonstrative exhibits with the Board, as a separate exhibit in accordance with 37 C.F.R. § 42.63, at least three business days prior to the hearing.

Demonstrative exhibits are not evidence, but merely a visual aid at the oral hearing. The Board expects the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits. For any issue that cannot be resolved after conferring with the opposing party, the parties may file jointly a one-page list of objections at least three business days prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one short sentence) of the reason for each objection. No argument or further explanation is permitted.

We will consider the objections and schedule a conference call, if necessary. Otherwise, we will reserve ruling on the objections until the hearing or after the hearing. Any objection to demonstrative exhibits that is not presented timely will be considered waived. Each party also shall provide a hard copy of its demonstrative exhibits to the court reporter at the hearing.

The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during each hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that several judges will be

attending electronically and will only have access to the courtesy copy of the demonstratives provided in advance, as referenced above. If a demonstrative is not made available to the Board in the manner indicated above, that demonstrative may not be available to each of the judges during the hearing and may not be considered. Further, images projected, using audio visual equipment in Dallas, may not be visible to the remote judges. Because of limitations on the audio transmission systems in our hearing rooms, the presenter may speak only when standing at the hearing room podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present at the oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party is unable to attend the oral hearing, the Board should be notified via a joint telephone conference call no later than five business days prior to the oral hearing to discuss the matter.

The Board will provide a court reporter, and the reporter's transcript will constitute the official record of the hearing. The oral hearing transcript will be entered in the record of the proceeding.

Requests for audio-visual equipment at the hearing are to be made five days in advance of the hearing date. The requests must be sent to Trials@uspto.gov. If the requests are not received timely, equipment may not be available on the day of the hearing.

IPR2018-00391
Patent 7,647,633 B2

PETITIONER:

Patrick D. McPherson
Patrick Muldoon
Joseph A. Powers
DUANE MORRIS LLP
PDMcPherson@duanemorris.com
PCMuldoon@duanemorris.com
JAPowers@duanemorris.com

PATENT OWNER:

James Hannah
Jeffrey H. Price
Michael Lee
KRAMER LEVIN NAFTALS & FRANKEL LLP
jhannah@kramerlevin.com
jprice@kramerlevin.com
mhlee@karamerlevin.com