

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VISA INC., and VISA U.S.A. INC., and
APPLE INC.
Petitioner,

v.

UNIVERSAL SECURE REGISTRY, LLC,
Patent Owner.

Case IPR2018-01350¹
Patent 8,856,539 B2

Before PATRICK R. SCANLON, GEORGIANNA W. BRADEN, and
JASON W. MELVIN, *Administrative Patent Judges*.

MELVIN, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Apple Inc., which filed a petition in IPR2019-00727, has been joined as a party to this proceeding.

Patent Owner, Universal Secure Registry, LLC, and Petitioner, Visa Inc. and Visa U.S.A. Inc., requested oral argument. Papers 25, 26. Additionally, each party requests 45 minutes per side. *Id.* We grant the requests.

Oral argument will commence at 1:00 PM ET on Thursday, November 21, 2019. The hearing will be conducted on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each side will receive 45 minutes of presentation time (including any rebuttal).

The hearing will be open to the public for in-person attendance, which will be accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing. For planning purposes, it is not required, but it would be greatly appreciated, if the parties could indicate to the Board by email to Trials@uspto.gov, at least two (2) business days prior to the hearing, approximately how many people they expect to be present at the hearing for each side.

The hearing will proceed as follows. Petitioner will open the hearing by presenting its case. Patent Owner then will respond to Petitioner's presentation. Petitioner may reserve rebuttal time (of no more than half its total argument time) to reply to Patent Owner's arguments. Patent Owner may reserve sur-rebuttal time (of no more than half its total argument time) to respond to Petitioner's rebuttal. *See Trial Practice Guide Update 20* (August 2018), <https://go.usa.gov/xU7GP>. No live testimony from any witness will be taken at the oral argument.

A pre-hearing conference call will be held at either party's request. The request must be made no later than November 7, 2019. Prior to making

such a request, the parties shall meet and confer and, when possible, send a joint request to the Board with an agreed upon set of limited issues for discussion. A request for a pre-hearing conference may be made by email to Trials@uspto.gov, and shall include a list of issues to be discussed during the call and proposed times for the call, which should be no later than three business days prior to the oral hearing.

At least one member of the panel will be attending the hearing electronically from a remote location and will not be able to view the projection screen in the hearing room. Thus, if a demonstrative exhibit is not made available in advance or visible to the judge(s) presiding over the hearing remotely, that demonstrative exhibit will not be allowed. Each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript and for the benefit of the judge(s) presiding over the hearing remotely. A hard copy of the demonstratives, if filed, should be provided to the court reporter at the hearing. Also, the parties are reminded that, at the oral argument, they "may rely upon evidence that has been previously submitted in the proceeding and may only present arguments relied upon in the papers previously submitted." *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). "No new evidence or arguments may be presented at the oral argument." *Id.*

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served on the opposing party seven (7) business days prior to the hearing. Demonstrative exhibits used at the final hearing are aids to oral argument and not evidence, and should be clearly marked as such. For example, each slide of a demonstrative exhibit may be marked with the words

“DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. *Trial Practice Guide Update*, 21.

The Board expects that the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved, the parties may raise any dispute over the propriety of each party’s demonstrative exhibits during the pre-hearing conference call, if requested as set forth above. Any objection to demonstrative exhibits that is not presented timely will be considered waived. The Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice. The parties may refer to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (PTAB October 23, 2013), and *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 (PTAB Jan. 27, 2014), regarding the appropriate content of demonstrative exhibits. The parties are directed to file their demonstrative exhibits, marked as noted above, in the record at least three (3) business days prior to the hearing.

The Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party’s argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should request a joint telephone conference with the Board no later than two (2) business days prior to the oral hearing to discuss the matter.

A party may request remote video attendance for one or more of its other attendees to view the hearing from any USPTO location. The available locations include the Midwest Regional Office in Detroit, Michigan; the Texas Regional Office in Dallas, Texas; the Rocky Mountain Regional

Office in Denver, Colorado; and the Silicon Valley Office in San Jose, CA. To request remote video viewing, a party must send an email message to Trials@uspto.gov ten business days prior to the hearing, indicating the requested location and the number planning to view the hearing from the remote location. The Board will notify the parties if the request for video viewing is granted. Note that it may not be possible to grant the request due to the availability of resources.

Any special requests for audio-visual equipment should be directed to Trials@uspto.gov. A party may also indicate any special requests related to appearing at an in-person oral hearing, such as a request to accommodate physical needs that limit mobility or visual or hearing impairments, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication not less than five (5) days before the hearing.

In consideration of the foregoing, it is:

ORDERED that oral argument will commence at 1:00 PM ET on November 21, 2019.

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