UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,
Petitioner,

v.

ECOFACTOR, INC.,
Patent Owner.

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IPR2021-00054
Patent 10,534,382 B2

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Record of Oral Hearing
Held: February 8, 2022

Before WESLEY B. DERRICK, JEFFREY W. ABRAHAM, and
SCOTT B. HOWARD, Administrative Patent Judges.

A P P E A R A N C E S

On Behalf of the Petitioner:

Matthew A. Smith
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On Behalf of the Patent Owner:

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Also Appearing:
Sylvia Gerukos, USPTO Staff
United States Patent & Trademark Office

The above-entitled matter came on for hearing on Tuesday,
February 8, 2022, commencing at 1:59 p.m. EST, by video/by telephone.

1   P R O C E E D I N G S

2   JUDGE HOWARD: Good morning. This is an

3   oral hearing in Case Number 2021-00054 between

4   Petitioner, Google LLC, and Patent Owner, EcoFactor

5   Inc., concerning U.S. Patent Number 10543382.

6   I am Judge Howard, and I am joined by

7   Judges Derrick and Abraham. Just a few

8   administrative matters before we begin. Per our

9   hearing order, each side will have 60 minutes to

10   present its case. Petitioner, who bears the burden

11   on unpatentability, will proceed first. You may

12   reserve up to half your time for rebuttal.

13   Once Petitioner has finished its initial

14   presentation, Patent Owner will proceed with its

15   argument. If Petitioner reserves time for rebuttal,

16   then Patent Owner can also reserve time for

17   sur-rebuttal. Rebuttal will be limited to addressing

18   issues raised by Patent Owner in its initial

19   presentation, and the sur-rebuttal will be limited to

20   issues raised by Petitioner in its rebuttal.

21   It is important that each and every

22   participant here have fair opportunity to both

23   listen and speak. If at any time you are having any

24   type of audio-visual issues, either where you cannot

25   hear us or cannot speak, please just contact us. We

1   will pause the hearing until any issues are

2   resolved tomake sure that you have your full amount of time.

3   We also request that if you are not

4   speaking that you please keep yourself on mute.

5   This will make things easier for everybody to hear,

6   including for the court reporter. In addition, to

7   allow everybody to follow your presentation and also

8   for clarity of the record, when you're referring to

9   your slides please identify the slide number that

10   you're using.

11   As for any objections if there are any, we

12   ask that you do not interrupt each other during the

13   proceedings. If you do have an objection, save them

14   for your argument time, and we can address them at

15   that point. At this time, we'd like counsel to

16   introduce yourselves and who you have with you

17   starting with the Petitioner.

18   MR. SMITH: Thank you, Your Honor. This

19   is Matthew Smith for the petitioner, and I believe

20   on the line are my associates Elizabeth Laughton and

21   a representative of Google.

22   JUDGE HOWARD: Okay. And who is there for

23   Patent Owner?

24   MR. LINK: Good afternoon, Your Honor.

25   Johnathan Link on behalf of patent owner, EcoFactor,

1   and I will be the only one on my side.

2   JUDGE HOWARD: Okay. And, Mr. Smith, how

3   much time would you like to reserve for your rebuttal?

4   MR. SMITH: 20 minutes, Your Honor. Thank you.

5   JUDGE HOWARD: Okay. I will be keeping

6   track of time manually as we go along. I will do my

7   best to give each party a five-minute warning before

8   you hit your rebuttal or sur-rebuttal time. I will

9   also try and give you a five-minute warning before

10   the end of your time altogether.

11   Mr. Smith, you can begin whenever you're ready.

12   MR. SMITH: Thank you, Your Honor.

13   Matthew Smith for the petitioner Google, may it

14   please the board. I'd like to start on slide 3 of

15   the petitioner's demonstratives which is the

16   overview. I think there's sort of three main

17   argument groups that have been identified by the

18   parties. The first, of course, is the claim

19   construction of one or more processors which I think

20   underpins a lot of the issues in this case, and then

21   a couple of issues that are independent or at least

22   somewhat independent on the one or more processors

23   construction and that is claim elements 1E and 1M

24   which deals, you know, essentially with outside

25   temperature being received and stored; and claim 12

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