

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

WAG ACQUISITION, L.L.C.,
Patent Owner.

IPR2022-01412 (Patent 9,742,824 B2)
IPR2022-01413 (Patent 9,762,636 B2)

Record of Oral Hearing
Held: January 4, 2024

Before HUBERT C. LORIN, JOHN A. HUDALLA, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

IPR2022-01412 (Patent 9,742,824 B2)

IPR2022-01413 (Patent 9,762,636 B2)

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The above-entitled matter came on for hearing on Thursday, January 4, 2024, commencing at 10:00 a.m. EST

P R O C E E D I N G S

9:59 a.m.

THE CLERK: All rise.

JUDGE LORIN: Good morning, please be seated. All right, good morning everyone. This is an oral hearing covering two cases, IPR2022-01412 and 01413. IPR2022-01412 concerns --

(Interruption.)

COURT REPORTER: Are we off the record for a minute?

JUDGE LORIN: Yeah, we'll go off the record now.

(Whereupon at 10:00 a.m., the above-entitled matter went off the record and resumed at 10:03 a.m.)

JUDGE LORIN: Okay. As I was saying, IPR2022-01412 concerns U.S. Patent 9,742,824 and the 1413 concerns U.S. Patent 9,762,636. In both cases, Petitioners Google, LLC and Patent Owners WAG Acquisition, L.L.C. I'm Judge Lorin. Accompanying me is Judge Hudalla and Judge Amundson, who is on the video remote. Let's begin with counsel for the parties. Please introduce yourselves for the record, starting with Petitioner.

MS. SONI: Good morning. Naina Soni, on behalf of Petitioner Google, LLC and with me is my colleague, Eamonn Gardner.

JUDGE LORIN: And will you be, will you be arguing for Petitioner?

MS. SONI: I'll be arguing a portion. Mr. Gardner will be arguing as well.

JUDGE LORIN: Okay, very good. Thank you very much.

MS. SONI: Thank you.

JUDGE LORIN: Patent Owner.

IPR2022-01412 (Patent 9,742,824 B2)

IPR2022-01413 (Patent 9,762,636 B2)

1 MR. ABRAMSON: Yes. My name is Ronald Abramson, and with
2 me is Michael Lewis for the Patent Owner WAG Acquisition, L.L.C.

3 JUDGE LORIN: And you'll be arguing for Patent Owner?

4 MR. ABRAMSON: I'll be arguing.

5 JUDGE LORIN: Okay. Thank you, Mr. Abramson. All right. Let's
6 go through some preliminaries. We stated in our hearing order of November
7 15th that each party will be given 60 minutes. Petitioner will proceed first,
8 then Patent Owner. Using any reserved rebuttal time, Petitioner may then
9 respond to Patent Owner's case. And finally using any reserved sur-rebuttal
10 time, Patent Owner may respond to Petitioner's rebuttal arguments. We
11 received demonstratives from both parties, so thank you for that. The panel
12 is reminded that the parties -- that the exhibits are only considered to the
13 extent they're helpful to the panel, that they articulate positions taken during
14 the hearing, reflect arguments and evidence made of record throughout the
15 trial.

16 We ask that each presenter identify clearly each demonstrative exhibit
17 by slide and screen number as you speak. Bear in mind that Judge
18 Amundson's appearing by video, so please be clear when talking about the
19 slides. Please remember this hearing is open to the public, and a full
20 transcript of the hearing will become part of the record. Counsel for
21 Petitioner, you may begin.

22 MS. SONI: Thank you.

23 JUDGE LORIN: Would you like to reserve some rebuttal time?

24 MS. SONI: Yes, 15 minutes please.

25 JUDGE LORIN: Okay.

26 (Pause.)

IPR2022-01412 (Patent 9,742,824 B2)

IPR2022-01413 (Patent 9,762,636 B2)

1 MS. SONI: So good morning. My name is Naina Soni, and with my
2 partner, Eamonn Gardner, I'll be presenting on behalf of Petitioner Google,
3 LLC in IPRs 2022-01412 and 1413 relating to the '824 and '636 patents. So
4 I'll be addressing arguments relating to Google's motion to exclude, as well
5 as claim construction, and then hand it over to Mr. Gardner to address the
6 grounds identified in Google's petitions in both IPRs.

7 Google's motion to exclude relates to four of Patent Owner's exhibits
8 falling into two buckets. The first bucket is hearsay, and as the Board
9 knows, there are two elements for hearsay. The first is out of court
10 statements; second, that are offered for the truth of the matter asserted. So
11 turning to the first element, Exhibits 2003, 2004 and 2009, as you can see on
12 Slide 3, are declarations, deposition testimony and hearing testimony from
13 experts that are not involved in this IPR.

14 So these experts, Dr. Houh and Dr. Jeffay are not retained by either
15 Patent Owner or Petitioner Google in these IPRs. They have not presented
16 testimony in these IPRs, nor have they been examined in these IPRs.

17 Turning to the second element, Patent Owner and its expert, Mr.
18 Hoarty, in his declaration, which is Exhibit 2002 to the IPRs, are attempting
19 to rely on these out of court statements. This out of court testimony by these
20 experts for the truth of the matter asserted, and on Slide 4, we have some
21 examples from the Patent Owner response and the Patent Owner sur-replies
22 for citing to Mr. Hoarty's declaration as we can see on the left of Slide 4, for
23 various statements and testimony provided by these experts.

24 Just taking the example on the left of Slide 4, we see that Patent
25 Owner in its sur-reply cites to Mr. Hoarty, which in turn cites to Dr. Jeffay's
26 testimony in Exhibit 2009, which is the ITC transcript hearing testimony that

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