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ERNEST D. BUFF
ERNEST D. BUFF & ASSOCIATES
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte WAG ACQUISITION, LLC

Appeal 2023-002525 (Reexamination Control 90/014,833)
Appeal 2023-003028 (Reexamination Control 90/014,836)
Appeal 2023-003319 (Reexamination Control 90/014,834)
Technology Center 3900

Oral Hearing Held: September 18, 2023

Before JOHN A. JEFFERY, ERIC B. CHEN, and
BRIAN J. MCNAMARA, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE APPELLANTS:

RONALD ABRAMSON, ESQUIRE
Liston Abramson LLP
The Chrysler Building
405 Lexington Avenue, 46th Floor
New York, New York 10174

The above-entitled matter came on for hearing on Monday, September 18, 2023, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Appeal 2023-002525 (Reexamination Control 90/014,833)
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P R O C E E D I N G S

1 - - - - -

2 JUDGE CHEN: Okay, Mr. Abramson, welcome to the board. This is
3 Judge Chen, and with me today are Judges Jeffery and McNamara. Before
4 we get started, just a few administrative matters. Number one, if you're not
5 speaking, please mute yourself. Number two -- number two, please identify
6 yourself each time you speak. This helps the court reporter prepare an
7 accurate transcript. Number three, we have the entire record before us,
8 including demonstratives.

9 If you are identifying demonstrative by page number, please provide a
10 few seconds for us to access that document. And lastly, please be aware that
11 members of the public may be listening in on this oral hearing. That being
12 said, please state your name and law firm for the record.

13 MR. ABRAMSON: Ronald Abramson, Liston Abramson LLP.

14 JUDGE CHEN: Okay. Thank you, Mr. Abramson. You have about 20
15 minutes, and you may begin. And just initially for, excuse me. This is
16 Appeal Number 2023-002525. Mr. Abramson, you may begin when you're
17 ready. And we would ask that you -- we're particularly interested in the Hill
18 reference with respect to this appeal. So, if you need a few minutes to
19 organize your notes, we can provide that for you.

20 MR. ABRAMSON: Yeah, the notice I got was all three appeals
21 combined, so we're doing them one by one. Which one are we -- which one
22 is this?

23 JUDGE CHEN: Okay, this is 2023-2525. Do you have -- we can be
24 flexible here. Do you want to address -- is there any particular order you'd

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1 like to proceed in?

2 MR. ABRAMSON: Well, let's just make sure we have on the table here,
3 we have three reexaminations that are on appeal here. And you go by the
4 patent number. There's an '839 patent, there's a '141 patent, and there's an
5 '011 patent. Let's see which appeal --

6 JUDGE CHEN: Sorry. Excuse me, okay, I'm going by appeal
7 number. So, calendar number one would be the -- is the '011 patent.

8 MR. ABRAMSON: Yeah. And then we also have the '141 and the
9 '839.

10 JUDGE CHEN: Okay, which one would you like to do first?

11 MR. ABRAMSON: I was planning on starting with the '839. And let
12 me tell you what I think the deal number is. It says this appearing --

13 JUDGE CHEN: You're going by patent numbers; is that correct?

14 MR. ABRAMSON: Yeah -- yeah. Jeez -- I don't even know what --
15 says Appeal Number --

16 JUDGE CHEN: '839.

17 MR. ABRAMSON: Yeah, it says 3028. It's 2023-3028.

18 JUDGE CHEN: Okay, you want to do that one first?

19 MR. ABRAMSON: Yeah, I think that's going to take the most time.

20 JUDGE CHEN: 3028.

21 MR. ABRAMSON: Yes, 3028. Correct. And then --

22 JUDGE CHEN: Okay. That is --

23 MR. ABRAMSON: -- by process of elimination. I don't know what
24 the last one is but --

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1 JUDGE CHEN: Okay, so 3028 is calendar number three, and this is --
2 that's the one with the Chen reference; is that correct? And the Chen
3 prosecution history?

4 MR. ABRAMSON: Correct.

5 JUDGE CHEN: Okay, so in the interest of flexibility, we shall begin
6 with Appeal Number 2023-003028.

7 MR. ABRAMSON: Thank you.

8 JUDGE CHEN: Okay, so you may begin when ready.

9 MR. ABRAMSON: Okay, so the three appeals today involve expired
10 patents. The patents and reexamination cover two separately claimed
11 embodiments derived from a common disclosure. And right now, we're
12 addressing one of those that -- that the different -- two different
13 embodiments may be referred to as push and pull. There's a common
14 concept behind the two embodiments which is in this process of streaming,
15 how do you quickly pre-establish on the client side of the connection a
16 buffer of streaming media data elements? In the simplest formulation,
17 media could be streamed by simply continuously pushing it out over the
18 connection to the client at about the rate that it'll be played back. Simplest
19 concept is just send it over the line at the same rate that it's going to be
20 played back, the client receives it and plays it back, and that's it.

21 JUDGE CHEN: Mr. Abramson, this is Judge Chen. Just a brief
22 question. Is push or pull actually claimed?

23 MR. ABRAMSON: No, not in those terms, no. But it's a concept that
24 underlies that's the way people refer to these things. They're not claimed
25 terms. But I'm just giving you a little background here. You know, in the

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