

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENOME & COMPANY,
Petitioner,

v.

THE UNIVERSITY OF CHICAGO,
Patent Owner.

Case PGR2019-00002
Patent 9,855,302 B2

Record of Oral Hearing
Held: January 15, 2020

Before SHERIDAN K. SNEDDEN, SUSAN L.C. MITCHELL, and
JOHN E. SCHNEIDER, *Administrative Patent Judges*.

Case PGR2019-00002
Patent 9,855,302 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Wednesday, January 15, 2020, commencing at 1:00 p.m., at the U.S. Patent & Trademark Office, 600 Dulany Street, Alexandria, Virginia 22314.

1 (Proceedings begin at 1:00 p.m.)

2 JUDGE MITCHELL: You may be seated.

3 So good afternoon, everyone. We have a final
4 hearing this afternoon in PGR2019-00002. I am Judge Mitchell,
5 and seated to my left is Judge Snedden, and with us by video
6 conference, is Judge Schneider.

7 I would like to get appearances for the parties on
8 the record. So who do we have for Petitioner?

9 MR. BAUER: Good afternoon, Judge. My name is John
10 Bauer. I'm here for Petitioner, lead counsel. I'm also here
11 with Andrew Schultz and I'm also here with Kongsik Kim, and
12 we're from the law firm of Nelson Mullins.

13 JUDGE MITCHELL: Hi.

14 MR. BAUER: And we filed the case. How -- myself
15 and Kongsik's subordinates.

16 JUDGE MITCHELL: All right. Thank you and welcome.

17 MR. BAUER: Thank you.

18 JUDGE MITCHELL: And who do we have for Patent
19 Owner?

20 MR. KAMHOLTZ: Scott Kamholtz, lead counsel for
21 Patent Owner. I'm joined by Jennifer Robbins, patent
22 consultant.

23 JUDGE MITCHELL: All right. Thank you and welcome.

24 We certainly set forth our procedure for how we're
25 going to handle the oral hearing today in our order, but I

1 just wanted to emphasize a couple of things with you before we
2 get started.

3 Each of you, as we said in our order, will have one-
4 hour total time to present argument per side. And to assist
5 Judge Schneider in following along with your argument and for
6 the clarity of the record when we go back and take a look, it
7 is very important that if you refer to an exhibit, that you
8 state the exhibit number and the page number to which you are
9 referring. And when you're referring to a demonstrative, that
10 you state the slide number.

11 Petitioner has the burden of showing the
12 unpatentability of the challenged claims and the Petitioner
13 will go first, and certainly, may reserve time for rebuttal.
14 The Patent Owner will then have the opportunity to present its
15 response and may reserve some time for rebuttal also.

16 We have reviewed Petitioner's Notice of Objections
17 to the Patent Owner's demonstrative exhibits. We're not going
18 to exclude any demonstrative at this time, but Petitioner may
19 certainly address any objectionable demonstrative in its
20 argument if you choose.

21 Furthermore, we just wanted to emphasize that
22 demonstratives are not evidence and we won't consider them as
23 such. They are used for the benefit of those in this room and
24 for the benefit of the transcript that will become a part of
25 this public record. The panel will distinguish evidence in
26 the record from argument appearing in the demonstrative

1 exhibits and all arguments must be supported by evidence
2 already of record and relied on in the briefing. The panel
3 will not consider arguments or evidence appearing only in
4 demonstrative exhibits.

5 So, Petitioner, you are welcome to begin, and would
6 you like to reserve time for rebuttal?

7 MR. BAUER: Yes, Your Honor. I would like to
8 reserve 20 minutes for rebuttal.

9 JUDGE MITCHELL: All right. Thank you.

10 MR. BAUER: Good afternoon, Judge Mitchell, Judge
11 Snedden, Judge Schneider. I represent the Petitioner in this
12 case. And may I approach? I have two subsequent
13 demonstratives for you.

14 JUDGE MITCHELL: Certainly.

15 MR. BAUER: Basically, just to give some framework
16 as to the argument that I'm going to present in the opening.
17 First, it will be just a general introduction with respect to
18 what the patent is about. And then I'll say a couple of words
19 about our expert, Dr. Braun. And then I'll address
20 obviousness --

21 JUDGE SCHNEIDER: Counsel, I'm sorry. I can barely
22 hear you. Could you adjust the microphone a little bit? Just
23 --

24 MR. BAUER: Is that better, Judge.

25 JUDGE SCHNEIDER: Yeah. That's better. Let's see.

26 MR. BAUER: I got to be careful with that. Is this

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