

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner,

v.

SURFCAST, INC.
Patent Owner.

Case IPR2013-00292¹
Patent 6,724,403

Before MICHAEL P. TIERNEY, JONI Y. CHANG, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

CLEMENTS, *Administrative Patent Judge*.

ORDER
Trial Hearing
35 U.S.C. § 316(a)(10)

¹ Cases IPR2013-00293, IPR2013-00294, and IPR2013-00295 have been consolidated with the instant proceeding.

Cases IPR2013-00292, IPR2013-00293,
IPR2013-00294, and IPR2013-00295
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Petitioner and Patent Owner requested a hearing in this proceeding pursuant to 37 C.F.R. § 42.70(a). Papers 66, 70. The requests are *granted*.

Each party will have ninety (90) minutes of total time to present arguments. Petitioner bears the ultimate burden of proof that Patent Owner's original patent claims at issue are unpatentable. Therefore, at oral hearing, Petitioner will proceed first to present its case with respect to the challenged claims and grounds with respect to which the Board instituted trial. Petitioner may reserve some of its argument time, both for rebuttal and for responding to Patent Owner's presentation on Patent Owner's Motion to Amend Claims.

Thereafter, Patent Owner will respond to Petitioner's presentation, having available to it the entirety of its allotted argument time. During this time, the Patent Owner also may present its Motion to Amend Claims. In that regard, note that the Patent Owner bears the burden of proof with regard to the proposed substitute claims. The Patent Owner may reserve some of its argument time for rebuttal to respond to Petitioner's opposing presentation on Patent Owner's Motion to Amend Claims.

Thereafter, Petitioner may make use of the time it has reserved, to rebut Patent Owner's opposing presentation with regard to the original patent claims, and to oppose Patent Owner's initial presentation with regard to Patent Owner's proposed substitute claims.

Finally, Patent Owner may make use of the time it has reserved to make rebuttal presentation with regard to its Motion to Amend Claims.

The hearing will commence at 2:00 PM Eastern Time on July 10, 2014, and will be open to the public for in-person attendance on the ninth floor of Madison

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Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance 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.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days prior to the hearing. The parties shall file any demonstrative exhibits with the Board two business days prior to the hearing, and the parties must initiate a conference call with the Board at least two business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (Oct. 23, 2013), regarding the appropriate content of demonstrative exhibits. The parties are reminded that the 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.

The Board expects lead counsel for Petitioner and Patent Owner to be present at the hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party will not be in attendance at the hearing, the Board should be notified via a joint conference call no later than two days prior to the hearing to discuss the matter.

Finally, the Board will make a projector and screen available at the hearing for displaying demonstrative exhibits, should the parties choose to do so. Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797.

Cases IPR2013-00292, IPR2013-00293,
IPR2013-00294, and IPR2013-00295
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