

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC. and COMCAST CABLE COMMUNICAITONS, LLC,
Petitioners,

v.

REALTIME ADAPTIVE STREAMING LLC,
Patent Owner.

Case IPR2018-01187 (Patent 9,769,477 B2)¹
Case IPR2018-01630 (Patent 9,769,477 B2)²

Before GEORGIANNA W. BRADEN, KEVIN W. CHERRY, and
KAMRAN JIVANI, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

ORDER

¹ Comcast Cable Communications, LLC, filed a petition in IPR2019-00786, and has been joined as a party to this proceeding.

² The Order concerns a matter applicable to both proceedings. We exercise our discretion to file a single Order in both cases. The parties, however, are not authorized to use this caption.

Trial Hearing
37 C.F.R. § 42.70

On February 4, 2019, we entered a Decision to Institute a trial proceeding in IPR2018-01187. Paper 22. A Scheduling Order set the date for oral hearing, if requested by either party, as October 15, 2019.

Paper 23, 8. On April 18, 2019, we entered a Decision to Institute a trial proceeding in IPR2018-01630. Paper 13. A Scheduling Order set the date for oral hearing in that related proceeding as October 14, 2019. Paper 14, 11. Pursuant to 37 C.F.R. § 42.70, both parties have requested oral argument in each proceeding. *See* Papers 30, 34.³ The parties' requests for oral argument are *granted*.

Oral argument for this proceeding will be held on **October 15, 2019** on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will commence at **1:00 PM Eastern Time** and it will be open to the public for in-person attendance. In-person attendance will be accommodated on a first-come-first-served basis. If the parties have any concern about disclosing confidential information, they are to contact the Board at least five (5) business days in advance of the hearing to discuss the matter.

Each party will have **seventy-five (75) minutes** of total time to present arguments for both its cases. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, Petitioner will proceed first to present its cases with regard to the challenged claims and

³ Citations are to the record in IPR2018-01187. Similar requests were made in IPR2018-01630.

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grounds on which we instituted trial in this proceeding and may reserve no more than half its time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's case. After that, Petitioner may use the rest of its time for its rebuttal, responding to Patent Owner's specific arguments presented at the oral hearing. If Patent Owner has reserved time for sur-rebuttal and up to the time remaining, Patent Owner may present sur-rebuttal argument. No live testimony from any witness will be taken at the oral hearing.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

Furthermore, pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five (5) business days before the hearing. **The demonstrative exhibits in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the Board.**

The parties shall serve objections to each other at least four (4) business days before the hearing. The parties shall meet and confer in good faith in an attempt to resolve objections. For any unresolved objections, the parties must, file the objections to the demonstratives with the Board at least three (3) business days before the hearing. Any objection to the demonstrative exhibits that is not presented timely will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is

permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

Although demonstrative exhibits in this case are not evidence, the parties shall file the demonstrative exhibits into the records of these proceedings at least three (3) business days prior to the hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least three (3) business days prior to the hearing by emailing them to Trials@uspto.gov.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument as long as that counsel is present in person. If either party expects that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two (2) business days prior to the oral hearing to discuss the matter.

A party may request remote video attendance for one or more of its other attendees to view the hearing from any USPTO location. The available locations include the USPTO headquarters in Alexandria, Virginia; the Rocky Mountain Regional Office in Denver, Colorado; the Elijah J. McCoy Midwest Regional Office in Detroit, Michigan; and the Silicon Valley Office in San Jose, CA. To request remote video viewing, a party must send an email message to Trials@uspto.gov at least ten (10) business

days prior to the hearing, indicating the requested location and the number of attendees planning to view the hearing from the remote location. The Board will notify the parties if the request for video viewing is granted. Note that it may not be possible to grant the request due to the availability of resources.

Any special requests for audio-visual equipment should be directed to Trials@uspto.gov. A party may also indicate any special requests related to appearing at an in-person oral hearing, such as a request to accommodate physical needs that limit mobility or visual or hearing impairments, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication not less than five (5) days before the hearing.

At least two judges will be participating remotely via a videoconferencing device and will not be able to view the projection screen in the hearing room. Thus, overhead projectors or document cameras (e.g., Elmos) are unavailable for the hearing. 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 avoid confusion, and to ensure the clarity and accuracy of the reporter's transcript.

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