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Paper 19
Entered: April 24, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HANGZHOU TAIHE TRADING CO., LTD. &
NINGBO LIKEJU TRADING CO., LTD.,
Petitioner,

v.

EP FAMILY CORP.,
Patent Owner.

IPR2023-00658
Patent D934,012

Before JOSIAH C. COCKS, SCOTT A. DANIELS, and KIMBERLY McGRAW, *Administrative Patent Judges.*

DANIELS, *Administrative Patent Judge*.

ORDER GRANTING REQUEST FOR ORAL ARGUMENT
37 C.F.R. § 42.70

I. ORAL ARGUMENT

A. Time and Format

Petitioner and Patent Owner have each requested that an oral hearing be scheduled in the above noted proceeding. Papers 15, 16. For this hearing, Patent Owner requested 30 minutes and Petitioner requested 30 minutes each for oral argument time. *Id.* The parties' requests are *granted* and each party is allotted 30 minutes to present arguments in the proceeding. Petitioner and Patent Owner requested the hearing be conducted by videoconference. *Id.*

Oral arguments will commence at 1:00 PM Eastern Time on May 16, 2023, by videoconference. 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 shall not make, or permit others to make audio or visual recordings of the proceeding.

If at any time during the hearing, you encounter technical or other difficulties that fundamentally undermine your ability to adequately represent your client, please let the Panel know immediately, and adjustments will be made.[1]

To facilitate planning, each party must contact PTAB Hearings at PTABHearings@uspto.gov five business days prior to the oral hearing date to receive videoconference set-up information. As a reminder, all arrangements and expenses related to a party's appearance by video, such as the selection of the facility to be used from which a party will attend by video, are the responsibility of that party. If a video connection cannot be

[1] For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

established, the parties will be provided with dial-in connection information, and the oral hearing will be conducted telephonically.

If one or both parties would prefer to participate in the oral hearing telephonically, they should notify PTAB Hearings at the above email address five (5) business days prior to the hearing to receive dial-in connection information.

Please unmute yourself only when speaking. The panel will have access to all papers filed with the Board, including demonstratives. During the oral hearing, the parties are advised to identify clearly and specifically each demonstrative referenced (e.g., by slide or screen number) to ensure the clarity and accuracy of the court reporter's transcript. In addition, the parties are advised to identify themselves each time they speak. Furthermore, the remote nature of the oral hearing may also result in an audio lag, and so the parties are advised to observe a pause prior to speaking, so as to avoid speaking over others.

Petitioner bears the ultimate burden of proof that the challenged claim are unpatentable. 35 U.S.C. § 316(e). Therefore, starting at 1 pm ET, by video, Petitioner will first present its case regarding the challenged claim at issue in IPR2023-00658. After Petitioner's presentation, Patent Owner may respond to Petitioner's arguments. Petitioner may respond to Patent Owner's argument using any time reserved for rebuttal. Patent Owner may then respond to Petitioner's rebuttal using any time reserved for sur-rebuttal.

B. Demonstratives and *Audio–Visual Equipment*

Notwithstanding 37 C.F.R. § 42.70(b), demonstrative exhibits, if any, must be served no later than five (5) business days before the hearing date. They shall be filed with the Board no later than three (3) business days before the hearing date. Demonstrative exhibits are merely a visual aid for

use at the hearing and are not evidence. Each slide should be clearly marked as such: for example, each slide may be marked with the words "DEMONSTRATIVE EXHIBIT – NOT EVIDENCE," in the footer. Demonstrative exhibits shall not introduce new arguments or evidence.

We expect that the parties will meet and confer in good faith resolve any objections to the demonstrative exhibits, but if such objections cannot be resolved, the parties may file any objections to demonstrative exhibits at least three (3) business days before the hearing. The objections should identify with particularity the demonstratives subject to the objection and include a short, one-sentence statement explaining the objection. We will consider the objections and schedule a conference call if necessary. Otherwise, we will reserve ruling on the objections. Any objection to demonstrative exhibits that is not timely filed will be considered waived. For further guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118).

The Board expects lead counsel for each party to be present at the oral hearing, although any backup counsel may present all or part of a party's argument. *See Consolidated Trial Practice Guide,*[2] 11. If either lead counsel is unable to be present at the hearing, the Board shall be advised by email no later than two (2) business days prior to the oral hearing, and such lead counsel shall be available for a conference call if necessary.

Any special requests for audio-visual equipment must be directed to PTABHearings@uspto.gov. A party may also indicate any special requests related to appearing at a video oral hearing, such as a request to

[22] Available at https://www.uspto.gov/TrialPracticeGuideConsolidated.

accommodate 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 days before the hearings.

C. Remote Attendance Requests

Members of the public may request to listen to this hearing. If resources are available, the Board generally expects to grant such requests. If either party objects to the Board granting such requests, for example, because confidential information may be discussed, the party must notify the Board at PTABHearings@uspto.gov at least five (5) business days prior to the hearing date.

D. Legal Experience and Advancement Program

The Board has established the "Legal Experience and Advancement Program," or "LEAP," to encourage advocates with less legal experience to argue before the Board to develop their skills. Either party may request that a qualifying LEAP practitioner participate in the program and conduct at least a portion of the party's oral argument. The Board will grant up to fifteen (15) minutes of additional argument time to that party, depending on the length of the proceeding and the PTAB's hearing schedule. A party should submit a request, no later than three (3) business days before the oral hearing, by email to the Board at PTABHearings@uspto.gov. Additional information and a combined LEAP Practitioner Request for Oral Hearing Participation and Verification Form is available on the LEAP website, www.uspto.gov/leap.

All practitioners appearing before the Board shall demonstrate the highest professional standards. All practitioners are expected to have a

command of the factual record, the applicable law, and Board procedures, as well as the authority to commit the party they represent.

II. ORDER

Accordingly, it is

ORDERED that oral argument for this proceeding shall commence at **1:00 PM Eastern Time on May 16, 2024**, and proceed in the manner set forth herein.

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