

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRYCER, LLC, and BRYCER MANAGEMENT, INC.,
Petitioner,

v.

TEGRIS, INC.,
Patent Owner.

IPR2023-01196
Patent 11,126,966 B2

Before HUBERT C. LORIN, MEREDITH C. PETRAVICK, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

The parties have filed “Joint Objections to Demonstrative Exhibits and Request for Telephone Conference.” Paper 39 (“Joint Objections,” filed Oct. 22, 2024). Given that a hearing in this case is set for 1 pm, Oct. 24, 2024, which is tomorrow, we find it more efficient to address the “Joint Objections” via this Order in lieu of a teleconference.

Patent Owner objects to Petitioner’s original demonstratives (Ex. 1041, filed Oct. 17, 2024). Patent Owner objects to slides 11-17, 20-21, 25-28, 32, 35, 39-51, 53, 55-64, 66, 74, 76-80, 86, 88, 91, and 93 because they “[i]nclude[] new argument[s]” and slides 4, 6, 7, 11-21, and 23-111 because they are “[t]ext/argument, i.e., not a demonstrative aid.” Paper 39, 2.

Petitioner states that

Within hours of hearing PO’s objections, Petitioners addressed them, intending to moot any further dispute. Petitioners have removed, e.g., issue headings on slide titles and text, other than specific call outs from the record. That took Petitioners’ slides from 111 to 104. . . . Petitioners did not *add* new matter in its revised slides, it deleted text, trying to reach agreement and avoid a dispute

Id. at 2. Petitioner filed a second set of demonstratives (Ex. 1042, filed Oct. 21, 2024) incorporating those changes, replacing the original demonstratives.

Patent Owner does not dispute Petitioner’s statements or that Petitioner’s second set of demonstrative reflects the changes Petitioner has stated it made to the original demonstratives in order to address Patent Owner’s objections.

Given that there is no dispute that Petitioner’s second set of demonstratives remove matter from Petitioner’s original demonstratives

without adding new matter, Petitioner is permitted to present its second set of demonstratives at the hearing.

Patent Owner objects to Petitioner's second set of demonstratives as follows: slides 13-19, 42-45, 47-65, 68, 71-78, 80-83, 86, and 94 are objected to because they "[i]nclude[] new argument[s]" and slides 5-39, 41-67, 71-78, 80-83, 85-104 are objected to because they are "[t]ext/argument, i.e., not a demonstrative aid." Paper 39, 2.

Patent Owner's objections require more detail. The Board is unable to confirm Patent Owner's reasons for excluding the indicated slides. For example, slide 13 reproduces Fig. 1 and four statements from the Chauhan reference (Ex. 1016). 1042, slide 13. We do not see a new argument on that slide. *Id.* Nor do we see a "[t]ext/argument" on the slide that would preclude the slide from being "a demonstrative aid." *Id.*

Patent Owner must provide a more detailed explanation as to why a slide "[i]ncludes new argument[s]" and/or is "[t]ext/argument, i.e., not a demonstrative aid" in order for the Board to confirm Patent Owner's argument that the indicated slides are noncompliant. If Patent Owner decides to file a more detailed explanation, it must be filed no later than end of business today, Wednesday, October 23, 2024. The Board will review the explanation, if filed, and render a decision on whether any of the indicated slides are or are not compliant at the start of the hearing.

That being said, we remind the parties that demonstrative slides are not evidence. Also, new arguments at the hearing are improper. The Board is familiar with the record and is able to discern when a party is raising a new argument.

For the above reasons, Petitioner is permitted to present its second set of demonstratives (Ex. 1042). Patent Owner's objections are noted but will not be ruled upon until a more detailed explanation is provided clarifying its reasons for objecting to slides 13-19, 42-45, 47-65, 68, 71-78, 80-83, 86, and 94 for "[i]nclud[ing] new argument[s]" and slides 5-39, 41-67, 71-78, 80-83, 85-104 for being "[t]ext/argument, i.e., not a demonstrative aid." Paper 39, 2; Ex. 1042.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that if Patent Owner files a more detailed explanation clarifying its objections, it must be filed no later than end of business, Wednesday, October 23, 2024.

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