

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

MPL BRANDS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	IPR 2024-01098
	)	
BUZZBALLZ, LLC,	)	
	)	U.S. Patent 11,738,904 B2
Patent Owner.	)	
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REPORTER'S TRANSCRIPT OF TELEPHONIC PROCEEDINGS

PAGES 1 - 11

DATE

Tuesday, April 22, 2025

TIME

9:01 a.m. - 9:11 a.m.

REPORTED BY: Taylor Maldonado, RPR, CSR No. 14482
JOB NO. J12766986

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TELEPHONIC APPEARANCES

**Honorable Judge Cynthia M. Hardman
Honorable Judge Eric Christian Jeschke
Honorable Judge Ken B. Barrett**

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PROCEEDINGS

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THE COURT REPORTER: Hello. My name is Taylor Maldonado. My CA CSR number is 14482. We are now on the record.

JUDGE HARDMAN: Thank you Ms. Maldonado. Yes. We are on the record.

Again, this is Judge Hardman, and I have with me Judges Barrett and Jeschke.

This is a conference call for IPR 2024-01098. The parties are MPL Brands NV Incorporated versus Buzzballz, LLC. Let's start with appearances, please. I'll start with counsel for the patent owner.

Who do we have on the line?

ATTORNEY WEBB: Thank you, your Honor. This is Greg Webb from Haynes & Boone, representing the patent owner of Buzzballz.

JUDGE HARDMAN: Good morning or good afternoon Mr. Webb.

And who do we have for petitioner?

ATTORNEY TEHRANCHI: Good morning this is Babak Tehranchi the lead counsel for MPL Brands.

JUDGE HARDMAN: Okay. Thank you, Mr. Tehranchi.

ATTORNEY SHVODIAN: And also on the line is

1 Daniel Shvodian of Perkins Coie for the petitioner.

2 THE COURT: Okay. Thank you.

3 And which party retained the court reporter?

4 ATTORNEY WEBB: Patent Owner, your Honor.

5 THE COURT: Okay. So, Mr. Webb, once the
6 transcript is available, will you please file it as an
7 exhibit in this IPR.

8 ATTORNEY WEBB: Yes, your Honor. We will.

9 JUDGE HARDMAN: Thank you.

10 So the panel convened this call today in
11 response to an email from Patent Owner that we received
12 on April 17th and that email indicated that Patent Owner
13 does not intend to file a response to the petition under
14 374CFR Section 42.120. In fact, under the scheduling
15 order, that response was due yesterday and, in fact, we
16 do not see a response on the docket.

17 So the reason we wanted to talk to the parties
18 briefly today is to clarify Patent Owners intentions and
19 to see if the parties have any views on the remaining
20 actives in the case schedules given that Patent Owner
21 elected to not file a response.

22 So starting with you, Mr. Webb, my first
23 question is how you want us to treat your lack of filing
24 a response, and what I mean by that is, as you likely
25 know, that under 37CFR Section 42.73B4, actions

1 construed to be a request for adverse judgment in an IPR
2 include abandonment of the contest such as not filing a
3 a response to the condition. So should we construe your
4 lack of filing a response as an abandonment of the
5 contest or does Patent Owner wish for us to proceed to a
6 final written decision in this matter that addresses the
7 patentability of the claims based on the petition or
8 whatever other papers are on the record.

9 ATTORNEY WEBB: Yes, your Honor. So Patent
10 Owner is not abandoning the contest. Since the 904
11 patent is not in suit, and we do have ongoing settlement
12 discussions between the parties, Patent Owner has simply
13 chosen to use it's resources in other areas. So we
14 understand while the board granted institution under the
15 reasonable likelihood standard, we still believe that
16 petitioner has not met its burden of showing
17 unpatentability under the more stringent preponderance
18 of evidence standard, and we'd like the board to go
19 ahead and do that evaluation based on the document on
20 the record.

21 THE COURT: Thank you for that clarification.
22 And just -- you mention that the 904 patent is not in
23 suit are you talking about in the parallel District
24 Court case.

25 ATTORNEY WEBB: Correct.

1 THE COURT: Okay.

2 And can you just remind us -- remind the panel
3 about that litigation, what it entails and what it's
4 current state is.

5 ATTORNEY WEBB: So the only ongoing patent
6 case is a declaratory judgment action against a
7 different patent not involving the 904 patent.

8 THE COURT: And did you say that there were
9 ongoing settlement discussions or did I mishear that.

10 ATTORNEY WEBB: There have been some
11 discussions between the parties but nothing, obviously,
12 finalized at this point.

13 THE COURT: Okay. I see.

14 And do you have a position at this point as to
15 whether Patent Owner would request an oral here in this
16 matter.

17 ATTORNEY WEBB: At this stage, Patent Owner
18 doesn't intend to take any more actions in this IPR.

19 THE COURT: Okay.

20 So I was going to also specifically ask about
21 filing any motions to exclude. So it sounds, like at
22 least at this point, you don't have any intention of
23 filing a motion to exclude. Is that correct?

24 ATTORNEY WEBB: That's correct.

25 THE COURT: Okay.

1 Just one moment please. Okay. I'll come back
2 to you, Mr. Webb. But let me turn to Counsel for
3 petitioner.

4 And my question here is Counsel for
5 petitioner, do you know at this stage whether you intend
6 to file a response to the petition to -- for the purpose
7 of addressing anything we said in the institution
8 decision.

9 ATTORNEY TEHRANCHI: Your Honor, we are -- we
10 don't know that yet. We were waiting to -- to find out
11 about the details whether this Patent Owner is
12 abandoning the contest, which doesn't seem to be the
13 case. So we're still making that assessment whether we
14 need to file the reply.

15 THE COURT: Okay. Okay. Thank you for that.
16 Do you, Mr. Tehranchi, have a current view on
17 whether you intend to request an oral hearing.

18 ATTORNEY TEHRANCHI: Your Honor, not -- not
19 yet. It would seem unlikely, but we don't have a firm
20 decision yet.

21 THE COURT: Okay. I understand.

22 So then my other question was going to be
23 whether either party had any request or that any changes
24 to any of the remaining deadlines and the scheduling
25 order that might be warranted at this stage. So I -- I

1 welcome either party to answer if they have any ideas
2 about that, but my suspicion is that nobody has any
3 thoughts on that at this time.

4 ATTORNEY WEBB: Nothing from Patent Owner.

5 ATTORNEY TEHRANCHI: Same with the petitioner.

6 THE COURT: Okay.

7 So -- and just to wrap up, I hear that -- that
8 Patent Owner is not intending to abandon the contest at
9 this stage. So for now we will continue it to proceed
10 to the final written decision. There are the remaining
11 dates in the schedule, including Patent Owner or -- I'm
12 sorry. Petitioners ability to file a reply if they
13 desire. If either party turns out that you want to
14 accelerate any of the deadlines or change any of the
15 deadlines, please meet and confer about that, then you
16 can reach out to us and we can see what we can do with
17 the schedule as warranted. But other than that, we will
18 just proceed under the current schedule.

19 ATTORNEY WEBB: Thank you, your Honor.
20 Appreciate it.

21 ATTORNEY TEHRANCHI: Thank you.

22 ATTORNEY SHVODIAN: Thank you, your Honor.
23 This is Dan Shvodian for petitioner. I just wanted to
24 clarify something that was said just so we have an
25 accurate record. The 904 patent is subject to

1 litigation right now. There are pending counterclaims
2 in one of the actions for both declaration and validity
3 and the declaration of inequitable conduct regarding
4 that patent. So the action in which we had filed it,
5 declaratory judgment action, has been dismissed but
6 there are counterclaims in another pending lawsuit that
7 assert both of those -- both in validity and
8 unforceability of that patent. So I just wanted the
9 record to be clear on that point.

10 THE COURT: Thank you. I appreciate that
11 clarification.

12 I don't think that -- at present, I don't
13 think the district court actions really have any bearing
14 on what we're doing here. It's more just a curiosity,
15 but I do appreciate that clarification.

16 ATTORNEY SHVODIAN: I agree no bearing here,
17 but I just wanted a clear record on it.

18 THE COURT: Yes. Thank you. Okay.

19 Unless the parties have anything else, I think
20 we can adjourn. So I'll just pause for a moment to see
21 if either party has anything additional things to raise
22 or any of my panel members have anything.

23 Okay. Hearing nothing, we are adjourned.
24 Thank you very much.

25 THE COURT REPORTER: Really quick. This is

1 the court reporter. Would any Counsel like to order a
2 copy of this transcript.

3 ATTORNEY TEHRANCHI: No thank you.

4 ATTORNEY SHVODIAN: No.

5 (Off the record: 9:11 a.m.)
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CERTIFICATE OF REPORTER

I, TAYLOR M. MALDONADO, a Certified Shorthand Reporter, holding a valid and current license issued by the State of California, CSR No. 14482, duly authorized to administer oaths, do hereby certify:

That said proceedings were taken down by me in shorthand at the time and place therein stated and thereafter transcribed into typewriting, by computer, under my direction and supervision.

I further certify that I am neither counsel for nor related to any party in the foregoing proceeding and caption named nor in any way interested in the outcome thereof.

DATED: 05/07/2025



TAYLOR M. MALDONADO, RPR, CSR NO. 14482

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