

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN EXPRESS TRAVEL RELATED SERVICES COMPANY, INC., et
al.,
Petitioner,

v.

HARVEY LUNENFELD,
Patent Owner.

Case CBM2014-00050
Patent 8,239,451 B1

Before MIRIAM L. QUINN, KARL D. EASTHOM, and
FRANCES L. IPPOLITO, Administrative Patent Judges.

QUINN, Administrative Patent Judge.

ORDER
Request for Oral Argument
37 C.F.R. § 42.70

Both parties have requested an oral hearing in this proceeding pursuant to 37 C.F.R. § 42.70. *See* Papers 42, 44. The parties' requests for oral hearing are granted.

This case will be heard on February 24, 2015. Each party will have 1 hour of total argument time. Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, at the oral hearing, Petitioner will proceed first to present its case with regard to the challenged claims on which basis we instituted trial. Thereafter, Patent Owner will respond to Petitioner's case and will have the opportunity to address Patent Owner's Contingent Motion to Amend. After that, Petitioner will make use of the rest of its time responding to Patent Owner. Patent Owner may reserve time for rebuttal of Petitioner's response with respect to the Motion to Amend.

There is a strong public policy interest in making all information presented in these proceedings public, as the review determines the patentability of claims in an issued patent and thus affects the rights of the public. This policy is reflected in part, for example, in 35 U.S.C. § 316(a)(1) and 35 U.S. C. § 326(a)(1), which provide that the file of any *inter partes* review or post grant review be made available to the public, except that any petition or document filed with the intent that it be sealed shall, if accompanied by a motion to seal, be treated as sealed pending the outcome of the ruling on the motion. Accordingly, we exercise our discretion to make the oral hearing publically available via in-person attendance.

Specifically, the hearing will commence at 2:00 PM Eastern Time, on February 24, 2015, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, and it will be open to the public for in-person attendance. In-person attendance will be accommodated on a first come first serve 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 before the hearing. 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. Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Any issue regarding demonstrative exhibits should be resolved at least *three* business days prior to the hearing by way of a joint telephone conference call to the Board. The parties are responsible for requesting such a conference sufficiently in advance of the hearing to accommodate this requirement. Any objection to demonstrative exhibits that is not timely presented will be considered waived. Demonstratives should be filed at the Board no later than *two* business days before the hearing. A hard copy of the demonstratives should be provided to the court reporter at the hearing.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. **Requests for audio-visual equipment are to be made 5 days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of 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 ensure the clarity and accuracy of the reporter's transcript.

The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location, and that if a demonstrative is not filed or otherwise made fully available or visible to the judge presiding over the hearing remotely, that demonstrative will not be considered. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at 571-272-9797.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, lead or backup counsel may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral hearing, the parties should initiate a joint telephone conference with the Board no later than *two* business days prior to the oral hearing to discuss the matter.

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