

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FEDERAL RESERVE BANK OF ATLANTA, FEDERAL RESERVE BANK OF BOSTON, FEDERAL RESERVE BANK OF CHICAGO, FEDERAL RESERVE BANK OF CLEVELAND, FEDERAL RESERVE BANK OF DALLAS, FEDERAL RESERVE BANK OF KANSAS CITY, FEDERAL RESERVE BANK OF MINNEAPOLIS, FEDERAL RESERVE BANK OF NEW YORK, FEDERAL RESERVE BANK OF PHILADELPHIA, FEDERAL RESERVE BANK OF RICHMOND, FEDERAL RESERVE BANK OF SAN FRANCISCO, and FEDERAL RESERVE BANK OF ST. LOUIS,  
Petitioner,

v.

BOZEMAN FINANCIAL LLC,  
Patent Owner.

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Case CBM2017-00035 (Patent No. 6,754,640 B2)  
Case CBM2017-00036 (Patent No. 8,768,840 B2)<sup>1</sup>

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Before MICHAEL W. KIM, WILLIAM V. SAINDON and KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

ORDER  
Trial Hearing Notice  
*35 U.S.C. § 326(a)(10); 37 C.F.R. § 42.70*

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<sup>1</sup> The Board is entering this Order in each proceeding. The parties are not authorized to use a caption identifying multiple proceedings.

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Both Petitioner and Patent Owner requested a hearing pursuant to 37 C.F.R. § 42.70(a). CBM2017-00035 Papers 29, 30; CBM2017-00036, Papers 32, 34. In both of its requests, Petitioner requested that the Board hear oral argument in these two cases simultaneously with a total of two hours of argument allotted to each side. *See* CBM2017-00035, Paper 29, 1.<sup>2</sup> Patent Owner requested a total of one hour of time allotted to each side, but is silent on whether it wishes to have a consolidated hearing. *See* CBM2017-00035, Paper 30, 3. In view of the foregoing, the parties' requests for oral hearing are *granted*.

These proceedings will be heard in the afternoon of **April 5, 2018**, beginning at **1:00 p.m. Eastern Time**. Given the overlap in these two proceedings, we believe that a consolidated hearing is appropriate. Each side will have **90 minutes** of total argument time. Petitioner bears the ultimate burden of proof that Patent Owner's patent claims at issue are unpatentable. Also, Patent Owner has filed a Contingent Motion to Amend its claims in CBM2017-00036. Patent Owner does not bear the burden of proving its amended claims are unpatentable.<sup>3</sup> *See Aqua Products, Inc. v. Matal*, 872 F.3d 1290, 1328 (Fed. Cir 2017) (en banc). At oral hearing, Petitioner will proceed first to present its case with respect to the challenged claims and grounds with respect to which the Board instituted trial, and also

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<sup>2</sup> We cite to the papers in CBM2017-00035 as representative.

<sup>3</sup> Memorandum from David P. Ruschke, Chief Administrative Patent Judge, to Patent Trial and Appeal Board, Guidance on Motions to Amend in view of *Aqua Products* (Nov. 21, 2017), [https://www.uspto.gov/sites/default/files/documents/guidance\\_on\\_motions\\_o\\_amend\\_11\\_2017.pdf](https://www.uspto.gov/sites/default/files/documents/guidance_on_motions_o_amend_11_2017.pdf).

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may present arguments in opposition to Patent Owner's Contingent Motion to Amend. Petitioner may reserve rebuttal time to respond to Patent Owner's arguments. Thereafter, Patent Owner will respond to Petitioner's presentation and present its arguments in support of its Motion to Amend. After Patent Owner's presentation, Petitioner may make use of the time it has reserved to rebut Patent Owner's presentation and respond to Patent Owner's presentation regarding the Motion to Amend.

New arguments not previously presented in the parties' substantive papers in this proceeding should not be raised at oral hearing.

The hearing will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come, first-served 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 (7) business days prior to the hearing. They shall be filed at the Board at least two (2) business days prior to the hearing, and the parties must initiate a conference call with the Board by two (2) business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. Any dispute over the propriety of demonstrative exhibits that is not timely presented two business days prior to the hearing will be considered waived. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB October 23, 2013) (Paper 118), regarding the appropriate content of demonstrative exhibits.

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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 at least five (5) business days in advance of the hearing date. The request is to be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the request is not received timely in the manner specified herein, 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. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible 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 at hearing, although any backup counsel may make the actual presentation, in whole or in part. If any lead counsel will not be in attendance at hearing, the Board should be notified via a joint telephone conference call no later than two business days prior to the hearing to discuss the matter.

#### ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the parties shall take note of the above information about the oral hearing to be held on April 5, 2018.

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