

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIMELIGHT NETWORKS, INC.,
Petitioner,

v.

AKAMAI TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2016-01711 (Patent 6,820,133 B1)
Case IPR2016-01894 (Patent 7,472,178 B2)¹

Before GREGG I. ANDERSON, JENNIFER MEYER CHAGNON, and
JASON W. MELVIN, *Administrative Patent Judges*.

ANDERSON, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ We exercise our discretion and use this joint caption. Absent authorization, the parties are not permitted to use this joint caption.

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Limelight Networks, Inc. (“Petitioner”) and Akamai Technologies, Inc. (“Patent Owner”) both requested an oral hearing in each of IPR2016-01711 and IPR2016-01894 pursuant to 37 C.F.R. § 42.70. *See*, Papers 33, 34 and 21, 22 respectively. We grant the parties’ requests.

These proceedings will be heard on December 5, 2017. Each party will have 30 minutes of total argument time for IPR2016-01711. Each party will have 30 minutes of total argument time for IPR2016-01894. Case IPR2016-01711 will be argued first, followed by IPR2016-01894.

Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, Petitioner will proceed first to present Petitioner’s case with regard to the challenged claims on which basis we instituted trial.

Thereafter, Patent Owner will respond to Petitioner’s case, and also present its arguments with respect to its motions to exclude (Papers 32 and 20 respectively), as Patent Owner bears the burden of proof on its motions to exclude. Patent Owner may reserve part of its time to rebut arguments made by Petitioner in response to the motions to exclude.

After that, Petitioner will make use of the rest of its time responding to Patent Owner’s presentation on all matters. Finally, if Patent Owner reserves rebuttal time, Patent Owner will address only issues raised by Petitioner regarding the motions to exclude.

Other than Patent Owner’s motions to exclude, there are no motions to amend or other motions to be addressed at the hearing.

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

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public. This policy is reflected in part, for example, in 35 U.S.C. §§ 316(a)(1) and 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 1:00 PM Eastern Time, on the aforementioned date, 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-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 *seven* business days before the hearing. The parties may refer to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, slip op. 2–5 (PTAB Jan. 27, 2014) (Paper 65), regarding the appropriate content of demonstrative exhibits. Any issue regarding demonstrative exhibits should be resolved at least *two* 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. Notwithstanding 37 C.F.R. § 42.70(b), the parties also shall file the demonstrative exhibits at least *two* business days prior to the

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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 directly 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 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 made fully available or visible to the judge presiding over the hearing remotely, that demonstrative will not be considered. 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 and the ability of the judge participating in the hearing remotely to closely follow the presenter's arguments and 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 and available to all of the judges, the parties are invited to contact the Board at (571) 272-9797. Documents presented on the Elmo projector may not be visible to remote judges, so please plan accordingly.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, lead or backup counsel of the presenting party may put forward the party's argument. If either party anticipates that its lead counsel will not be attending the oral hearing, the parties should initiate a

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joint telephone conference with the Board no later than *two business days* prior to the oral hearing to discuss the matter.

ORDER

ORDERED that oral argument will be held on December 5, 2017, commencing at the time and place stated above; and

FURTHER ORDERED that a copy of this Order shall be filed in IPR2016-01711 and IPR2016-01894.

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