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Paper 24
Entered: December 19, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC. and INSTAGRAM LLC,
Petitioner,

v.

SKKY, LLC,
Patent Owner.

Case IPR2017-00088 (Patent 9,124,718 B2)
Case IPR2017-00089 (Patent 9,118,693 B2)
Case IPR2017-00092 (Patent 9,124,717 B2)
Case IPR2017-00097 (Patent 8,892,465 B2)[1]

Before JUSTIN T. ARBES, CARL M. DEFRANCO, and ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

ORDER
Oral Hearing
35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70

[1] This Order pertains to each of these cases. Therefore, we exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

The Scheduling Orders for the above-listed cases set the date for the oral hearing as January 11, 2018. Paper 10, 6.[2] Each party requested an oral hearing pursuant to 37 C.F.R. § 42.70. Papers 22, 23. The parties' requests for an oral hearing are *granted*.

The hearing will commence at 1:00 PM ET on January 11, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance that 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.

Each party will have a total of sixty (60) minutes to present any arguments relating to the above-listed cases.[3] Petitioner bears the ultimate burden of proof that the claims under review in these cases are unpatentable and bears the burden of proof on its motion to exclude. Therefore, Petitioner will proceed first, and Patent Owner will follow. Petitioner may then use any time Petitioner reserved for rebuttal. The parties are reminded that the presenter must identify clearly and specifically any demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the

[2] We cite to the record in IPR2017-00088.

[3] Patent Owner originally requested thirty (30) minutes for each of the above-listed cases. Paper 22, 1. However, in an email to the Board on December 7, 2017, Patent Owner stated that it agrees with Petitioner's proposal that each party have a total of sixty (60) minutes for all of the above-listed cases in a consolidated hearing. Ex. 3001.

clarity and accuracy of the reporter's transcript and the ability of all judges to follow the presenter's arguments.

Under 37 C.F.R. § 42.70(b), the parties shall serve any demonstrative exhibits upon each other at least seven (7) business days prior to the hearing. The parties also shall provide the demonstrative exhibits to the Board at least two (2) business days prior to the hearing by emailing them to Trials@uspto.gov. The parties shall not file any demonstrative exhibits in these cases without prior authorization. The parties also should note that at least one member of the panel may be attending the hearing electronically from a remote location and that, if a demonstrative is not submitted by email prior to the hearing, it may not be fully available or visible to any judges attending remotely. The parties also should note that a panel member appearing remotely will not be able to hear the parties unless they speak into the microphone at the podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently available and visible to all of the judges, the parties are invited to contact the Board.

We expect the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits. If such objections cannot be resolved, the parties must initiate a conference call with the Board at least two (2) business days prior to the hearing to resolve any objections to demonstrative exhibits. Any objection to demonstrative exhibits that is not timely presented at least two (2) business days prior to the hearing will be considered waived.

We expect lead counsel for each party to attend the hearing. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012).

However, any counsel of record may present the party's arguments. If either party anticipates that its lead counsel will not attend the hearing, the parties shall request and make themselves available for a conference call with the Board to occur no later than two (2) business days prior to the hearing to discuss the reasons for that lead counsel's absence.

Any requests regarding special equipment or needs, such as for audio/visual equipment, should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the identified email address not less than five (5) business days before the hearing.

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