

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FANDUEL, INC.
DRAFTKINGS, INC.
BWIN.PARTY DIGITAL ENTERTAINMENT PLC,
Petitioner,

v.

CG TECHNOLOGY DEVELOPMENT, LLC,
Patent Owner.

Case IPR2017-00902
Patent RE39,818 E

Before THOMAS L. GIANNETTI, BARRY L. GROSSMAN, and
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
Oral Argument
37 C.F.R. § 42.5

The parties requested oral argument in these proceedings pursuant to 37 C.F.R. § 42.70. Papers 29, 32. The requests are granted.

Oral Argument

Oral argument for these proceedings will be conducted on July, 16, 2018, at 10:00 AM Eastern Time, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each party will have one hour of total argument time.

Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, Petitioner will proceed first to present its case with regard to the challenged claims on which we instituted trial. Thereafter, Patent Owner will respond. After that, Petitioner may make use of any reserved or remaining time of its allocated time responding to Patent Owner. Outstanding Motions will be argued during the moving party's allotted time.

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. Accordingly, the oral hearing will be open to the public for in-person attendance. Attendance will be accommodated on a first come, first serve basis.

The Board will provide a court reporter for the hearing. The reporter's transcript will constitute the official record of the hearing.

Demonstratives

Demonstratives, if used, are aids in support of oral argument; they are not evidence in the review. They will not become part of the official record of this review other than via the transcript of oral argument. If

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demonstratives are to be used during oral argument, they should be exchanged by email at least five days before oral argument. Copies should also be sent at the same time by email (not filed via electronic filing) to the Board. 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 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 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. 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.

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

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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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