

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELESIGN CORPORATION,
Petitioner,

v.

TWILIO INC.,
Patent Owner.

Case IPR2017-01976 (Patent 8,837,465 B2)
Case IPR2017-01977 (Patent 8,755,376 B2)¹

Before ROBERT J. WEINSCHENK, KIMBERLY MCGRAW, and
SCOTT C. MOORE, *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 both 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.

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The Scheduling Orders for the above-listed cases set the date for the oral hearing as November 15, 2018. Paper 12, 6.² Each party requested an oral hearing pursuant to 37 C.F.R. § 42.70. Papers 35, 38. The parties' requests for an oral hearing are *granted*.

The hearing will commence at 1:00 PM ET on November 15, 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.

The above-listed cases involve the same parties. The Scheduling Orders for both cases were synchronized, and the oral hearings are scheduled for the same day. Paper 12, 6. As the parties requested (Papers 35, 38), the oral hearings for the above-listed cases will be conducted at the same time, i.e., not *in seriatim*.

Each party will have a total of sixty (60) minutes to present any arguments relating to the above-listed cases. Petitioner bears the ultimate burden of proof that the claims under review in these cases are unpatentable. Therefore, Petitioner will proceed first, and Patent Owner will follow. Petitioner may then use any time Petitioner reserved for rebuttal. Absent special circumstances, Petitioner will not be permitted to reserve for rebuttal more than half the total time allotted for argument. Patent Owner may request a brief sur-rebuttal.

² We cite to the record in IPR2017-01976, unless otherwise noted.

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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 five (5) business days prior to the hearing by emailing them to Trials@uspto.gov. Notwithstanding 37 C.F.R. § 42.70(b), the parties shall not file any demonstrative exhibits without prior authorization.

The parties 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 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 ability of all judges to follow the presenter's arguments. 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.

Demonstrative exhibits used at the hearing are aids to oral argument and not evidence, and should be clearly marked as such. For example, each slide of a demonstrative exhibit may be marked with the words "DEMONSTRATIVE EXHIBIT – NOT EVIDENCE" in the footer. Demonstrative exhibits cannot be used to advance arguments or introduce evidence not previously presented in the record.

The parties are encouraged to resolve objections by exchanging proposed demonstrative exhibits and conferring prior to submitting the

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exhibits to the Board. Objections to demonstratives should be carefully considered and framed as the Board has not found that such objections are helpful in many cases. If any objections cannot be resolved, the parties must initiate a conference call with the Board at least two (2) business days prior to the hearing. Any objection to demonstrative exhibits that are 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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