

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EXOCAD GMBH AND EXOCAD AMERICA, INC.
Petitioners,

v.

3SHAPE A/S,
Patent Owner.

Case IPR2018-00788
Patent 9,336,336 B2

Record of Oral Hearing
Held: June 24, 2019

Before SALLY C. MEDLEY, IRVIN E. BRANCH, and
FRANCES L. IPPOLITO *Administrative Patent Judges.*

Case IPR2018-00788
Patent 9,336,336 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Monday, June 24, 2019, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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1:00 p.m.

JUDGE MEDLEY: Please be seated. Okay. Good afternoon. This is the hearing for IPR 2018-00788 Exocad GmbH et al. v. 3Shape A/S involving U.S. Patent Number 9336336.

At this time, we would like the parties to please introduce counsel for the record at the podium and microphone, beginning with Petitioner, please.

MR. LOWRIE: On behalf of Petitioner, I am Matt Lowrie of Foley & Lardner. With me is Kevin Littman of Foley & Lardner, and we are also joined by Till Steinbrecher who is the CEO of the Petitioner, who has come from Germany, and he apologizes because he left his suit jacket in Germany.

JUDGE MEDLEY: No worries. Thank you.

And for Patent Owner?

MR. LEE: Good afternoon, Your Honors. My name is Roger Lee. I am representing Patent Owner 3Shape A/S. With me are counsel of record Mythili Markowski and Todd Walters.

JUDGE MEDLEY: Okay. Thank you.

MR. LEE: Thank you.

JUDGE MEDLEY: All right. Each party has 60 minutes total time to present arguments. Petitioner will proceed first to present its case with respect to the challenge claims and grounds for which the board instituted a

1 trial and may reserve some of its argument time to respond to arguments
2 presented by Patent Owner.

3 Thereafter, Patent Owner will respond to Petitioner's presentation
4 and may reserve argument time for a surrebuttal. Are there any questions as
5 to the order of presentation?

6 MR. LOWRIE: No, Your Honor.

7 MR. LEE: No, Your Honor.

8 JUDGE MEDLEY: Okay. And Petitioner, would you like to
9 reserve rebuttal time?

10 MR. LEE: Yes, 10 to 15 minutes, Your Honor. But we can see how
11 it goes.

12 JUDGE MEDLEY: Okay. And we don't have a -- you know, I have
13 the clock here but we don't have it projected so you'll just have to keep track.
14 And Patent Owner, would you like to reserve rebuttal time? Surrebuttal
15 time?

16 MR. LOWRIE: Yes, Your Honor. We would like to reserve 15
17 minutes for rebuttal.

18 JUDGE MEDLEY: Okay. Thank you. All right.

19 MR. LEE: Thank you, Your Honor.

20 JUDGE MEDLEY: Thank you. Okay. As a reminder, you see that
21 we have Judges Ippolito and Branch. They can't see the demonstratives that
22 you project on the screen. So please refer to the slide number so that they
23 may follow along. And also be sure to speak right into the microphone;
24 otherwise, they cannot hear you. We'd like to remind the parties that this

1 hearing is open to the public and a transcript will be entered into the public
2 record of the proceeding. And at this time, I believe Judge Branch will
3 address the parties' objections to the demonstratives that we received.

4 JUDGE BRANCH: Thank you, Judge Medley. The panel has
5 received the respective objections to the demonstratives. Demonstratives are
6 not evidence. We are aware that the parties dispute whether arguments have
7 been previously presented. These disputes have been noted and to the extent
8 they are relevant to our ultimate decision the panel will consider the parties'
9 respective positions when reviewing the complete record for the final written
10 decision. Also, we will not rule on Patent Owner's pending motion to
11 exclude at this time. It will also be decided as necessary as part of the final
12 written decision. Any questions?

13 MR. LOWRIE: Not from Petitioner, Your Honor.

14 MR. LEE: Your Honor, Patent Owner does have a question.

15 JUDGE BRANCH: Please.

16 JUDGE MEDLEY: Can you -- can you hear him when he speaks,
17 Gene?

18 JUDGE BRANCH: I am able to hear him. Yes.

19 JUDGE MEDLEY: Okay.

20 MR. LEE: Patent Owner also has an outstanding motion to strike.
21 Will a motion to strike also be decided in the course of rendering a decision -
22 - a final decision, Your Honor?

23 JUDGE BRANCH: Yes.

24 MR. LEE: Thank you very much.

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