

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MMODAL LLC,
Petitioner,

v.

NUANCE COMMUNICATIONS, INC.,
Patent Owner.

IPR2018-01431
IPR2018-01435¹
Patent 6,999,933 B2

Before KEN B. BARRETT, NEIL T. POWELL, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

ORDER

Oral Argument

35 U.S.C. § 316(a)(10); 37 C.F.R. § 42.70

¹ This Order addresses an issue pertaining to both captioned 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 of heading absent express authorization from the Board.

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MModal LLC (“Petitioner”) and Nuance Communications, Inc. (“Patent Owner”) have requested a hearing in the above-captioned proceedings pursuant to 37 C.F.R. § 42.70. IPR2018-01431, Paper 50; IPR2018-01431, Paper 52; IPR2018-01435, Paper 52; IPR2018-01435, Paper 54. Petitioner requests the hearings for the proceedings, both scheduled to take place on November 15, 2019, be consolidated on the grounds that the cases “involve nearly all of the same issues.” IPR2018-01431 Paper 52; IPR2018-01435, Paper 54. Petitioner requests ninety (90) minutes of argument time per side total for the consolidated cases. IPR2018-01431 Paper 52; IPR2018-01435, Paper 54. Patent Owner requests one (1) hour of argument time per side total for the consolidated cases. IPR2018-01431 Paper 50; IPR2018-01435, Paper 52. The requests for hearing are *granted*.

The consolidated hearing for the above-captioned proceedings will commence at **1:00 PM Eastern Time, on Friday, November 15, 2019**, on the **ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia**. Each party will have ninety (90) minutes of argument time, as requested by Petitioner. The hearing will be open to the public for in-person attendance, which will be accommodated on a first-come, first-served basis. To facilitate planning, each party must send an email message to PTABHearings@uspto.gov five (5) days prior to the hearing if the number planning to attend the hearing in-person for its side (attorneys and others) exceeds five people.

Petitioner will proceed first to present its case as to the challenged claims and instituted grounds of unpatentability, and may reserve a portion

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of its time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's case. After that, Petitioner may use the rest of its time for its rebuttal, responding to Patent Owner's specific arguments presented at the oral hearing. No live testimony from any witness will be taken at the oral hearing.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served at least seven (7) business days prior to the hearing. The parties shall confer with each other regarding any objections to demonstrative exhibits, and file demonstrative exhibits with the Board, as a separate exhibit in accordance with 37 C.F.R. § 42.63, at least five (5) business days prior to the hearing.

The parties are reminded that demonstrative exhibits are not evidence, but merely a visual aid at the oral hearing. The Board expects the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits. For any issue that cannot be resolved after conferring with the opposing party, the parties may email jointly to trials@uspto.gov a one-page list of objections at least five business days prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one short sentence) of the reason for each objection. No argument or further explanation is permitted.

We will consider the objections and schedule a conference call, if necessary. Otherwise, we will reserve ruling on the objections until the hearing or after the hearing. Any objection to demonstrative exhibits that is not presented timely will be considered waived. Each party shall also

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provide a hard copy of its demonstrative exhibits to the court reporter at 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 should note that one or more judges may be attending remotely and will have access to only the copy of the demonstratives filed in advance, as referenced above. If a demonstrative is not made available to the Board in the manner indicated above, that demonstrative may not be available to each of the judges during the hearing and may not be considered. Further, images projected, using audio visual equipment in Alexandria, will not be visible to judges attending remotely. Because of limitations on the audio transmission systems in our hearing rooms, the presenter should speak only when standing at the hearing room podium. 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.

The Board expects lead counsel for each party to be present at the oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party is unable to attend the oral hearing, the Board should be notified via a joint telephone conference call no later than five business days prior to the oral hearing to discuss the matter.

The Board will provide a court reporter, and the reporter's transcript will constitute the official record of the hearing. The hearing transcript will be entered in the record of the proceedings.

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A party may request remote video attendance for one or more of its other attendees to view the hearing from any USPTO location. The available locations include the Texas Regional Office in Dallas, Texas; the Rocky Mountain Regional Office in Denver, Colorado; the Elijah J. McCoy Midwest Regional Office in Detroit, Michigan; and the Silicon Valley Office in San Jose, CA. To request remote video viewing, a party must send an email message to PTABHearings@uspto.gov five (5) business days prior to the hearing, indicating the requested location and the number planning to view the hearing from the remote location. The Board will notify the parties if the request for video viewing is granted. Note that it may not be possible to grant the request due to the availability of resources.

Any special requests for audio-visual equipment should be directed to PTABHearings@uspto.gov. A party may also indicate any special requests related to appearing at an in-person oral hearing, such as a request to accommodate physical needs that limit mobility or visual or hearing impairments, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication not less than five (5) days before the hearing.

It is

ORDERED that oral argument will commence at 1:00 PM ET on November 15, 2019.

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