

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DATASPEED INC.
Petitioner,

v.

SUCXESS LLC.
Patent Owner.

IPR2020-00116 (Patent 9,871,671 B2)
IPR2020-00147 (Patent 10,027,505 B2)

Record of Oral Hearing
Held: February 11, 2021

Before TREVOR M. JEFFERSON, MINN CHUNG, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

IPR2020-00116 (Patent 9,871,671 B2)
IPR2020-00147 (Patent 10,027,505 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

PETER GOWDEY, ESQUIRE
WAYNE HELGE, ESQUIRE
JAMES WILSON, ESQUIRE
Davidson Berquist Jefferson & Gowdey, LLP
8300 Greensboro Drive, Suite 500
McLean, Virginia 22102
(571) 765-7700

ON BEHALF OF THE PATENT OWNER:

AXEL NIX, ESQUIRE
Smartpat PLC
400 Renaissance Center, Suite 2600
Detroit, Michigan 48243

MAXWELL GOSS, ESQUIRE
Maxwell Goss Law
370 East Maple Road, Third Floor
Birmingham, Michigan 48009

The above-entitled matter came on for hearing on Thursday, February 11, 2021, commencing at 1:01 p.m. EDT, by video/by telephone.

1 PROCEEDINGS

2 - - - - -

3 JUDGE JEFFERSON: Good afternoon. This is a combined hearing
4 for three inter partes reviews. The Cases are IPR-2020-00116, for Patent
5 Number 9,871,671, IPR-2020-00147, for Patent Number 10,027,505, and
6 IPR-2020-00268, for Patent 10,454,707. I am Judge Jefferson and with me
7 are Judges Chung and Engels. And the Petitioner in these three cases are
8 Dataspeed, Inc. and the Patent Owner is Success, LLC.

9 I'm going to dive into with just some background housekeeping before
10 we do our appearances. I want to welcome you all and thank you for your
11 flexibility in conducting our hearings via teleconference. We know this is, I
12 guess, a now standard procedure for practice for many of you. But it's still
13 something that was new for a few of us and we appreciate your patience.
14 Our primary concern is obviously your right to be heard and present your
15 case on the record. If at any time during the proceeding you encounter
16 technical or other difficulties, you should have been given telephone
17 numbers for contact and our very capable hearing, remote hearing staff will
18 make sure you can get back connected.

19 If any time your ability to protect your client or to present your case is
20 undermined, please let us know immediately, contacting the hearing
21 members if you're someone unconnected or even in hand gestures if we can
22 see you. And let us know that you can't hear us or there's something going
23 on. I'm going to ask you to mute yourselves and follow the instructions
24 you've been given. Please identify yourself each time when speaking.
25 Sometimes you might not be the main person on the screen. It's helpful to
26 know who's speaking in case that doesn't happen.

1 We have your entire record before us and the demonstratives that you
2 have filed and sent in as exhibits. Please refer to them as precisely as
3 possible. It helps us follow along and it's also great for the record. Having
4 read a few of these records after the fact, I'm actually enjoying the fact that
5 everybody puts the notations as they're speaking so we know exactly what
6 you're referring to. Please pause and give yourself -- us a little time to catch
7 up if you're referring to parts of the record.

8 Finally, our hearings are open to the public. We do have a public line.
9 I'm not aware of any sealed or confidential information that is at issue in this
10 proceeding. But if you are discussing anything you think might be subject to
11 that kind of restriction, please do note it during your presentation or bring it
12 to our attention. Again, I don't know of anything that's in this particular
13 record, but I will ask parties to police themselves and to let us know if
14 something comes up.

15 So, with that in mind, I think we're through the major bookkeeping.
16 I'll let you know, we're going to do these -- per our order, we're going to do
17 these cases together, but they're going to be on separate transcripts. So, the
18 first two cases are going to be handled in the 45 minutes you're allotted each.
19 We'll take a break, a short break because this is not a marathon. We're
20 trying to get through this all together. And we will reconvene and come
21 back on the record. I'll do a smaller introduction to get us into the '268 case
22 and we'll finish up with that.

23 So, with that in mind, I'll turn to the Petitioner and ask you to make
24 your appearances and let us know who's with you if they're in the room with
25 you or otherwise on our call.

1 MR. HELGE: Good afternoon, Your Honor. My name is Wayne
2 Helge, and I am backup, first backup counsel for the Petitioner Dataspeed
3 here. In the room with me I have our lead counsel Peter Gowdey, who was
4 standing in the frame a moment ago. I can bring him back in if you'd like to
5 see him.

6 JUDGE JEFFERSON: No, that's fine. Please proceed.

7 MR. HELGE: Okay. Thank you, Your Honor. And I also have Mr.
8 Wilson. I know that you see perhaps on the runup or the panel of
9 participants, Mr. Wilson is listed as a guest. And the intention, Your Honor,
10 is for me to argue this first case, Mr. Wilson is present in the room. And
11 then we'll shift over to his workstation in a different office and I'll mute, or
12 I'll shut off camera, and we will do the '268 proceeding from his
13 workstation.

14 JUDGE JEFFERSON: That is perfectly acceptable. Thank you. And
15 Patent Owner, could you please make your appearances and let us know if
16 there are any parties participating remotely or with you.

17 MR. NIX: Yes, Your Honor, this is Axel Nix for the Patent Owner
18 Success LLC, dialed in remotely. And socially distanced from me is my co-
19 counsel Maxwell Goss.

20 JUDGE JEFFERSON: Thank you, Mr. Nix. And I appreciate you all
21 making your own arrangements and aligning yourselves to have a very safe
22 proceeding.

23 So, as you know from our trial order, we have a combined hearing for
24 IPR 2020-00116 and IPR 2020-00147. Each party has 45 minutes in total to
25 present their arguments in those cases. Petitioner has the burden to show
26 unpatentability of the challenged claims and will proceed first, followed by

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.