

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NETNUT LTD.,  
Petitioner,

v.

BRIGHT DATA LTD.,  
(f/k/a LUMINATI NETWORKS LTD.),  
Patent Owner.

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IPR2021-00458 (Patent 9,241,044 B2)  
IPR2021-00465 (Patent 9,742,866 B2)<sup>1</sup>

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Before THOMAS L. GIANNETTI, SHEILA F. McSHANE, and  
RUSSELL E. CASS, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

ORDER  
Granting Requests for Oral Argument  
*37 C.F.R. § 42.70(a)*

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<sup>1</sup> This Order applies to each of the listed cases. We exercise our discretion to issue one Order to be docketed in each case. The parties may not use this caption for any subsequent papers without prior Board authorization.

IPR2021-00458 (Patent 9,241,044 B2)  
IPR2021-00465 (Patent 9,742,866 B2)

## I. ORAL ARGUMENT

The Revised Scheduling Orders (Paper 21<sup>2</sup>) for these proceedings provided that an oral argument would be conducted on June 10, 2022, if requested by the parties and granted by the Board. Petitioner requests 60 minutes of argument time for IPR2021-00458 and 60 minutes of argument time for IPR2021-00465. Paper 25, 1; IPR2021-00465, Paper 24 at 1. Patent Owner requests that the arguments in IPR2021-00458 and IPR2021-00465 be heard in a single hearing in view of the similarity of issues between the cases, and that 90 minutes of argument be permitted per party. Paper 28, 1; IPR2021-00465, Paper 27 at 1.

We have considered the briefings filed in the cases and because many of the issues presented in IPR2021-00458 and IPR2021-00465 overlap, the cases will be heard in a single hearing. At the hearing, each party will have 90 minutes of total argument time.

Oral arguments will commence at 1:00 PM ET on Friday, June 10, 2022, by video. The parties are directed to contact the Board at least ten business days in advance of the hearing if there are any concerns about disclosing confidential information. The Board will provide a court reporter for the hearing, and the reporter's consolidated transcript will constitute the official record of the hearing.

If at any time during the proceedings, an attorney encounters technical or other difficulties that fundamentally undermine the attorney's ability to

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<sup>2</sup> For purposes of expediency, we cite to papers filed in IPR2021-00458, unless otherwise noted. Similar papers are filed in IPR2021-00465.

IPR2021-00458 (Patent 9,241,044 B2)

IPR2021-00465 (Patent 9,742,866 B2)

adequately represent the attorney's client, please inform the panel immediately, and adjustments will be made.<sup>3</sup>

To facilitate planning, each party must contact PTAB Hearings at [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov) at least five business days prior to the oral hearing date to receive video set-up information. As a reminder, all arrangements and the expenses involved with appearing by video, such as the selection of the facility to be used from which a party will attend by video, must be borne by that party. If a video connection cannot be established, the parties will be provided with dial-in connection information, and the oral hearing will be conducted telephonically.

If one or both parties would prefer to participate in the oral hearing telephonically, they should notify PTAB Hearings at the above email address five business days prior to the hearing to receive dial-in connection information.

Patent Owner has filed non-contingent Revised Motions to Amend, and the only issues that the parties identify for argument at the hearing relate to the Revised Motions to Amend. *See* Papers 20, 25, 28. Petitioner will open the hearing by presenting its case. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument. Next, Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. Lastly, Patent Owner may reserve sur-rebuttal time; however, Patent Owner's sur-rebuttal must be limited in scope to the issues Petitioner raises during its rebuttal time. No live testimony from any witness will be taken at the hearing.

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<sup>3</sup> For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

IPR2021-00458 (Patent 9,241,044 B2)  
IPR2021-00465 (Patent 9,742,866 B2)

## II. DEMONSTRATIVES

The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 at 2–5 (PTAB Jan. 27, 2014) (Order – Conduct of the Proceeding), for guidance regarding the appropriate content of demonstrative exhibits. Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the hearing. The parties also shall provide file the demonstrative exhibits at least five business days before the hearing. A copy of the demonstratives should also be sent by email to [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov).

The parties shall meet and confer to discuss and resolve any objections to demonstrative exhibits. Any party with unresolved objections must file a list of those objections with the Board at least two business days before the hearing. For each objection, the list must identify with particularity which portions of the demonstrative exhibits are subject to the objection and may include a short, one-sentence statement explaining the objection. No argument or further explanation is permitted. The Board will consider any objections and schedule a conference call if deemed necessary. Otherwise, the Board will reserve ruling on the objections. Any objection to demonstrative exhibits not timely presented may be considered waived. The Board may reserve ruling on the objections until after the hearing.

If desired, a request for a pre-hearing conference must be made by June 2, 2022. To request such a conference, an email message should be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov) including several dates and times of availability for one or both parties, as appropriate, that are generally no later than three business days before the hearing.

IPR2021-00458 (Patent 9,241,044 B2)

IPR2021-00465 (Patent 9,742,866 B2)

### III. OTHER MATTERS

The Board generally expects lead counsel for each party to be present by video at the oral hearing. Any counsel of record may present the party's argument, in whole or in part, as long as that counsel is present by video.

Any special requests for audio-visual equipment must be directed to [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov). A party may also indicate any special requests related to appearing at a video oral hearing, such as a request to accommodate 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 days before the hearing.

Attorneys will unmute themselves only when speaking. The panel will have access to all papers filed with the Board, including demonstratives. During the oral hearing, attorneys must identify clearly and specifically each demonstrative referenced (e.g., by slide or screen number) to ensure the clarity and accuracy of the court reporter's transcript. In addition, attorneys must identify themselves at the beginning of their presentation or after another attorney speaks. Furthermore, the remote nature of the oral hearing may also result in an audio lag, so attorneys must observe a pause prior to speaking to avoid speaking over others.

Members of the public may request to listen in on this oral hearing. If resources are available, the Board generally expects to grant such requests. If either party objects to the Board granting such requests, for example, because confidential information may be discussed, the party must notify the Board by contacting [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov) at least five business days prior to the oral hearing date.

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