

2019–1883

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**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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IN RE NELSON GEORGE PUBLICOVER, LEWIS JAMES MARGGRAFF,  
ELIOT FRANCIS DRAKE, AND SPENCER JAMES CONNAUGHTON,

*Appellants*

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Appeal from the United States Patent and Trademark Office,  
Patent Trial and Appeal Board, Appeal 2018-005362  
regarding Application No. 15/131,273

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**APPELLANTS' MOTION TO RECONSIDER THE ORDER CANCELING ORAL  
ARGUMENT AND TO RESCHEDULE ORAL ARGUMENT FOR A LATER DATE**

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Attorneys for Appellants Nelson George Publicover, Lewis James Marggraff,  
Eliot Francis Drake, and Spencer James Connaughton

April 16, 2020

Earlier this week, the Court issued a sua sponte order canceling the oral argument in this case that had been scheduled for May 8, 2020. Appellants appreciate the extraordinary conditions that have forced the Court to hear some oral arguments telephonically and cancel other arguments altogether. Nevertheless, Appellants respectfully request that the Court reconsider and hear oral argument in this case, either telephonically on a date convenient to the Court or, preferably, later this year in person, because this case involves an initiative important to our profession.

Google LLC is the real party in interest in this case because Appellants are patent applicants and have assigned their interests to Google. Google and its outside law firms, including Perkins Coie LLP, are collaborating to increase participation by and provide opportunities to promising junior and diverse lawyers in their appellate matters.

In this case, Appellants' lead counsel and most knowledgeable attorney on the matter is Theresa H. Nguyen, a highly regarded associate in Perkins Coie's Seattle office who has drafted briefs for this Court but has not previously argued a Federal Circuit appeal. Ms. Nguyen has taken charge of this important case for Google and Appellants, and the quality of her briefing speaks for itself. She, Google, and Appellants were hoping that she could complete this valuable experience by giving oral argument in this case.

Appellants have conferred with counsel for Appellee Iancu, Director of the United States Patent and Trademark Office, who conveyed the following position:

Counsel for the USPTO does not take any position on this motion, but respects the panel's decision to cancel oral argument as well as appellant's interest in arguing the case and presumes that the motion will be assessed in light of the burden conducting such argument places on the panel and counsel during this unprecedented time.

Google and Appellants recognize that the current pandemic has placed great stress on the Court, and they appreciate the Court's need to alter its usual procedures in this difficult time. Nevertheless, if doing so would not create an undue burden on the Court, Google and Appellants respectfully request that the Court postpone submission and resolution of the appeal, preferably until later this year, after conditions improve, to facilitate an oral argument. Google and Appellants would greatly appreciate it, and the profession will benefit, if the Court would reconsider its order canceling oral argument.

Dated: April 16, 2020

Respectfully submitted,

PERKINS COIE LLP

By /s/Dan L. Bagatell  
Dan L. Bagatell

Counsel for Appellants Nelson George Publicover,  
Lewis James Marggraff, Eliot Francis Drake and  
Spencer James Connaughton

**CERTIFICATE OF INTEREST**

Counsel for appellant certifies the following:

The full names of every party represented by me are:

Nelson George Publicover, Lewis James Marggraff, Eliot Francis Drake,  
and Spencer James Connaughton

The names of the real party in interest is:

Google LLC

The names of all parent corporations and any publicly held companies that own 10% or more of the stock of the party represented by me are:

None, but real party in interest Google LLC is a subsidiary of XXVI Holdings, which is a subsidiary of Alphabet Inc., a publicly traded company. No publicly traded company owns 10% or more of Alphabet Inc.'s stock.

The names of all law firms and lawyers that appeared for the party now represented by me in the district court or are expected to appear in this Court, but have not yet appeared in this Court, are:

VISTA IP LAW GROUP LLP

William A. English

DAVIDSON SHEEHAN LLP

Ryan S. Davidson

Allen Torng

David M. LaBruno  
(no longer with the firm)

The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this Court's decision in the pending appeal are:

None

Dated: April 16, 2020

/s/Dan L. Bagatell

Dan L. Bagatell

**CERTIFICATE OF COMPLIANCE WITH WORD COUNT LIMITATION**

I certify that this motion contains 394 words and therefore complies with  
Fed. R. App. P. 27(d)(2)(a).

Dated: April 16, 2020.

/s/Dan L. Bagatell

Dan L. Bagatell