

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MUNCHKIN, INC. AND TOYS “R” US, INC.
Petitioners

v.

LUV N’ CARE, LTD.
Patent Owner

Case IPR2013-00072
Patent D617,465

Before JENNIFER S. BISK, BENJAMIN D. M. WOOD, and
MICHAEL J. FITZPATRICK, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.10

The Scheduling Order in this proceeding set the date for oral hearing for January 22, 2014, if a hearing was requested by either party and granted by the Board. Paper 9.

Petitioner requested oral hearing pursuant to 37 C.F.R. § 42.70. Paper 21. The request for oral hearing is *granted*. Each party will have one hour to present arguments.

Petitioner bears the ultimate burden of proof that Patent Owner's sole claim at issue in this review is unpatentable. Patent Owner bears the burden of proof with respect to its motion to amend (Paper 13). Petitioner will open the hearing by presenting its case regarding the challenged claim for which the Board instituted trial. Patent Owner will then respond to Petitioner's argument and also argue in support of its motion to amend claims. Each party may reserve time to respond to arguments presented by the other party with some limitations. More specifically, to the extent that Petitioner reserves time, it may respond to Patent Owner's presentation on all matters. To the extent that Patent Owner reserves time, it may respond to Petitioner's arguments opposing the motion to amend claims.

The hearing will commence at 1:00 PM, on January 22, 2014, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. There are no motions to seal in the present proceeding. Accordingly, the Board exercises its discretion to make the final hearing publically available via in-person attendance. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not

consider any deposition testimony that has not been so filed. Furthermore, under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days before the hearing. The Board requests that such exhibits be filed at the Board at least five business days before the hearing. The parties must initiate a conference call with the Board at least two business days before the hearing to present any objection regarding the propriety of any demonstrative exhibit. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to the hearings clerk at 571-272-9797.

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PETITIONER:

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