

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NUVASIVE, INC.
Petitioner

v.

WARSAW ORTHOPEDIC, INC.
Patent Owner

Cases IPR2013-00395 (Patent 8,444,696 B2)
IPR2013-00396 (Patent 8,444,696 B2)

Before SALLY C. MEDLEY, LORA M. GREEN, and STEPHEN C. SIU,
Administrative Patent Judges.

MEDLEY, *Administrative Patent Judge.*

ORDER
Trial Hearing
35 U.S.C. § 316(a)(10)

Both parties request a hearing in both cases pursuant to 37 C.F.R. § 42.70.
IPR2013-00395, Papers 28 and 30; IPR2013-00396, Papers 27 and 29. The
requests are *granted*.

Each party will have sixty (60) minutes of total time to present arguments for the two cases. Because the two cases involve the same patent, with similar issues, Petitioner will proceed first to present its case with respect to the challenged claims and grounds for which the Board instituted trial for both cases. Thereafter, Patent Owner will respond to Petitioner's presentation for both cases. Petitioner may reserve rebuttal time to respond to Patent Owner's presentation with respect to both cases.

The hearing for these cases will commence at 2:00 PM Eastern Time, on July 31, 2014, and it will be open to the public for in-person attendance, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come first-served basis.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served five business days prior to the hearing. They shall be filed at the Board two business days prior to the hearing, and the parties must initiate a conference call with the Board by two business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (October 23, 2013) regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present at hearing, although any backup counsel may make the actual presentation, in whole or in part. If any lead counsel will not be in attendance at hearing, the Board should be notified via a joint telephone conference call no later than two days prior to the hearing to discuss the matter.

IPR2013-00395 and IPR2013-00396
Patent 8,444,696 B2

For PETITIONER

Stephen Schaefer
Michael Hawkins
Todd Miller
Fish and Richardson PC
schaefer@fr.com
hawkins@fr.com
miller@fr.com

For PATENT OWNER

Thomas Martin
Wesley Meinerding
Martin and Ferraro LLP
tmartin@martinferraro.com
wmeinerding@martinferraro.com

Nimalka Wickramasekera
Kirkland & Ellis LLP
nwickramasekera@kirkland.com