

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PNY TECHNOLOGIES, INC.  
Petitioner

v.

PHISON ELECTRONICS CORP.  
Patent Owner

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Case IPR2013-00472<sup>1</sup>  
Patent 7,518,879

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Before KEVIN F. TURNER, STEPHEN C. SIU, and RAMA G. ELLURU,  
Administrative Patent Judges.

TURNER, Administrative Patent Judge.

ORDER  
*Requests for Oral Argument*  
37 C.F.R. § 42.70

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<sup>1</sup> Case IPR2014-00150 has been joined with this proceeding.

The Revised Scheduling Order (Paper 19) for this proceeding provided that an oral hearing would be conducted if the hearing is requested by the parties and granted by the Board. Patent Owner has requested oral hearing pursuant to 37 C.F.R. § 42.70. Paper 30. The request is *granted*.<sup>2</sup>

Each side will have sixty (60) minutes to present argument. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue are unpatentable. Thus, Petitioner will open the hearing by presenting its case regarding the challenged claims for which we instituted trial. Petitioner may reserve some of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's presentation.

The hearing will commence at 1:00 PM on November 12, 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. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. If the parties have any concern about disclosing confidential information, they are requested to contact the Board at least 7 days in advance of the hearing to discuss the matter. At least one member of the panel will be attending the oral argument remotely by use of two-way audiovisual communication equipment.

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 date. The parties also shall

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<sup>2</sup> Petitioner did not file a request for oral argument. If either party does not intend to participate at the hearing, the party shall contact the Board as soon as possible.

provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the hearing by emailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov). The parties shall *not* file any demonstrative exhibits in this proceeding without prior authorization from the Board.

The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary.

Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan* IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. *See also CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (PTAB October 23, 2013) (The Board has the discretion to limit the parties' demonstratives to pages in the record should there be no easy resolution to objections over demonstratives). No live testimony from any witness will be taken at the oral argument.

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 expects 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.

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Any special requests for audiovisual equipment should be directed to [Trials@uspto.gov](mailto:Trials@uspto.gov). Requests for special equipment will not be honored unless presented in a separate communication not less than five days before the hearing, directed to the above email address.

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