

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD;  
SAMSUNG ELECTRONICS AMERICA, INC.;<sup>1</sup>

Petitioner,

v.

AFFINITY LABS OF TEXAS, LLC,  
Patent Owner.

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Case IPR2014-01181<sup>2</sup>  
Patent 8,532,641 B2

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Before KEVIN F. TURNER, LYNNE E. PETTIGREW, and  
JON B. TORNQUIST, *Administrative Patent Judges*.

TORNQUIST, *Administrative Patent Judge*.

ORDER  
Modifying Scheduling Order and  
Granting the Parties' Request for Oral Argument  
*37 C.F.R. §§ 42.5, 42.70*

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<sup>1</sup> On January 1, 2015, Samsung Telecommunications America, LLC, an originally-named Petitioner in this case, was merged into Samsung Electronics America, Inc. *See* IPR2014-01181, Paper 9.

<sup>2</sup> On March 24, 2015, we consolidated IPR2014-01182 and IPR2014-01184 with IPR2014-01181. IPR2014-01181, Paper 15, 2.

On September 21, 2015, a telephone conference was held between respective counsel for the parties and Judges Turner, Pettigrew, and Tornquist. Counsel for Patent Owner requested the conference call to seek modification of the current Scheduling Order (Paper 11) in order to accommodate the deposition of Petitioner's declarant.

*Scheduling Order*

On the call, we granted Patent Owner's request to modify Due Dates 4, 5, and 6 of the Scheduling Order, as agreed to by the parties on the call, as follows: Due Date 4 is now October 6; Due Date 5 is now October 13; and Due Date 6 is now October 20. In view of the modification to Due Date 6, service of demonstrative exhibits, and the filing of any objections thereto, shall be in accordance with the deadlines set forth below.

*Oral Argument*

On the call, both parties indicated they intend to request oral argument. We deem this to be a request for oral argument pursuant to 37 C.F.R. § 42.70, which we *grant*.

Oral argument shall commence at 2:00 PM Eastern Time on October 28, 2015, on the 9<sup>th</sup> floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

Each side will have ninety (90) 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 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 5 days in advance of the hearing to discuss the matter.

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.

Demonstrative exhibits are to be served by October 23, 2015. The parties shall provide a courtesy copy of any demonstrative exhibits to the Board on or before October 23, 2015 by emailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov). The parties also should note that one or more members of the panel will be attending the hearing electronically from a remote location by use of two-way audiovisual communication equipment and will not be able to view the projection screen in the hearing room. If a demonstrative exhibit is not filed before the hearing or otherwise made available to the judge presiding over the hearing remotely, that demonstrative exhibit will not be considered.

The Board expects that the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved the parties may file any objections to demonstratives with the Board on or before October 26, 2015. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are

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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.

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.

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.

In light of the foregoing, it is:

ORDERED that the current Scheduling Order (Paper 11) is hereby modified as follows: Due Date 4 is now October 6; Due Date 5 is now October 13; and Due Date 6 is now October 20; and

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FURTHER ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 2:00 PM Eastern Time on October 28, 2015.

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