

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

DSS TECHNOLOGY MANAGEMENT, INC.,
Patent Owner.

Cases IPR2015-00369 and IPR2015-00373¹
Patent 6,128,290

Before JAMESON LEE, MATTHEW R. CLEMENTS, and
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

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

¹ This order addresses issues pertaining to both IPR2015-00369 and IPR2015-00373. We exercise our discretion to issue a single order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

The two instant proceedings pertain to the same challenged patent. In each proceeding, Petitioner and Patent Owner requested a hearing pursuant to 37 C.F.R. § 42.70(a). *See* IPR2015-00369, Papers 28, 30; IPR2015-00373, Papers 27, 29. The requests are *granted*.

A single, combined hearing for the two proceedings will take place on **March 15, 2016**, at **1:00 PM Eastern Time**. Petitioner and Patent Owner will each have sixty minutes to present arguments. Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable. Therefore, Petitioner will proceed first to present its case as to the challenged claims and may reserve rebuttal time. Patent Owner then will respond to Petitioner's case. After that, Petitioner may use the rest of its time to respond to Patent Owner's presentation. The parties should note that statements made in the combined hearing will have application in whichever underlying proceeding the record of which supports the statement.

The hearing 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 transcripts 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. The parties shall confer with each other regarding any objections to demonstrative exhibits and file demonstrative exhibits with the Board at least two business days prior to the hearing. For any issue that cannot be resolved after conferring with the opposing party, the parties may file jointly a one-page list of objections and

shall request a conference call with the Board at least two business days prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one sentence) of the reason for each objection. No argument or further explanation is permitted. Any objection to demonstrative exhibits that is not presented timely will be considered waived. Each party also shall provide a hard copy of its demonstrative exhibits to the court reporter at the hearing.

The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033, slip op. at 2–5 (PTAB Oct. 23, 2013) (Paper 118), regarding the appropriate content of demonstrative exhibits. The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter’s transcripts. The parties also should note that two members of the panel will be attending the hearing electronically from a remote location and that if a demonstrative exhibit is not filed or otherwise made fully available or visible to the judges presiding over the hearing remotely, that demonstrative exhibit will not be considered.

For each proceeding, the Board expects lead counsel for Petitioner and Patent Owner to be present at the hearing, although any back-up counsel may make the actual presentation, in whole or in part. If lead counsel for any party will not be in attendance at the hearing, the Board should be notified via a joint conference call no later than two business days prior to the hearing to discuss the matter.

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Requests for audio-visual equipment at the hearing are to be made five business days in advance of the hearing date. The requests must be sent to *Trials@uspto.gov*. If the requests are not received timely, equipment may not be available on the days of the hearing. Further, if the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at 571-272-9797.

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