

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKERMIN, INC.,
Petitioner,

v.

CO₂ SOLUTIONS INC.,
Patent Owner.

Case IPR2015-00880
Patent 8,329,458 B2

Before MICHAEL P. TIERNEY, JON B. TORNQUIST, and
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

ROESEL, *Administrative Patent Judge*.

ORDER
Oral Hearing
37 C.F.R. § 42.70

We instituted the above-identified *inter partes* review. Paper 10. The Scheduling Order set June 9, 2016, as the date for oral argument, if requested by the parties and granted by the Board. Paper 11. Petitioner requested an oral hearing pursuant to 37 C.F.R. § 42.70(a). Paper 20. Petitioner's request is granted.

The hearing will commence at 1:30 PM Eastern Time, on June 9, 2016, and will be conducted at the USPTO Central Headquarters located in Alexandria, Virginia (the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, 22314). The hearing will be open to the public for in-person attendance that will be accommodated on a first-come first-serve basis.

Each party will have 45 minutes of total time to present its arguments. Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable. Therefore, Petitioner will proceed first to present its case regarding the challenged claims and grounds for which the Board instituted trial. Patent Owner will then respond to Petitioner's arguments. Petitioner may reserve time to respond to arguments presented by Patent Owner. Patent Owner may not reserve time. No live testimony from any witness will be taken at the oral argument. There are no motions to amend or other motions to be addressed at the hearing.

The Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party will not be in attendance at oral hearing, the Board should be notified via a joint telephone conference call no later than (2) two business days prior to the oral hearing to discuss the matter.

The Board will provide a court reporter for the oral argument and the reporter's transcript will constitute the official record of the oral argument. The hearing transcript will be entered in the record of this proceeding.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least (7) seven business days before the hearing date. Any demonstrative

exhibits shall be also be filed with the Board at least (5) five business days prior to the hearing.

Demonstrative exhibits are not evidence, but merely a visual aid at the oral arguments. Demonstrative exhibits may not introduce new evidence or raise new arguments, but instead, should cite to evidence in the record. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) and *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118) for guidance regarding the appropriate content of demonstrative exhibits.

The Board requests that the parties attempt to resolve any objections to the demonstratives, and if any objections cannot be resolved, the parties must file any such objections with the Board at least (2) 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.

To aid in the preparation of an accurate transcript, each party shall provide a paper copy of any demonstratives to the court reporter on the day of the oral arguments. Such paper copies shall not become part of the record of this proceeding. The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen

IPR2015-00880
Patent 8,329,458 B2

number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript.

Requests for audio-visual equipment are to be made (5) five days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

IPR2015-00880
Patent 8,329,458 B2

PETITIONER:

Marc Vander Tuig
Janet Hendrickson
Kathleen Petrillo
Robert Evans
SENNIGER POWERS LLP
mvandertuig@senniger.com
jhendrickson@senniger.com
kpetrillo@senniger.com
revans@senniger.com

PATENT OWNER:

Sandip Patel
Amanda Antons
Steven Parks
MARSHALL GERSTEIN & BORUN LLP
spatel@marshallip.com
aantons@marshallip.com
sparks@marshallip.com