

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

OPENTV, INC.,  
Patent Owner.

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Case IPR2015-00969 (Patent 5,884,033)  
Case IPR2015-00980 (Patent 5,566,287)  
Case IPR2015-01031 (Patent 7,900,229 B2)<sup>1</sup>

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Before JAMES B. ARPIN, DAVID C. MCKONE, and SCOTT C. MOORE,  
*Administrative Patent Judges.*

MCKONE, *Administrative Patent Judge.*

ORDER  
Trial Hearing  
37 C.F.R. § 42.70

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<sup>1</sup> This Order applies to each of the listed cases. We exercise our discretion to issue one Order to be docketed in each case. The parties, however, are not authorized to use this caption for any subsequent papers.

IPR2015-00969 (Patent 5,884,033)  
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The Scheduling Order set June 21, 2016, as the date for oral argument, if requested by the parties and granted by the Board. IPR2015-00969, Paper 9; IPR2015-00980, Paper 12; IPR2015-01031, Paper 11.<sup>2</sup> Both Petitioner and Patent Owner have requested oral argument. Papers 18, 19. Patent Owner requests forty-five (45) minutes to argue each proceeding. Paper 18, 2. Petitioner requests thirty (30) minutes to argue each proceeding. Paper 19, 1.

The parties' requests for oral argument are granted. Oral arguments for these cases will commence at 10:00 AM Mountain Time on June 21, 2016, at the Rocky Mountain Regional Office of the USPTO, located on the 14<sup>th</sup> Floor of the Byron G. Rogers Federal Building, 1961 Stout Street, Denver, Colorado, 80294. Counsel and other attendees will need a picture ID in order to enter the Byron G. Rogers Federal Building. The parties are advised to check-in with security on the 14<sup>th</sup> floor at least thirty (30) minutes before the hearing is set to begin.

The hearing room in the Rocky Mountain Regional Office can accommodate the lead counsel and a back-up counsel for each party at its respective counsel table and one hearing room attendee for each party. Other party attendees will be accommodated in an overflow room located across the hall from the hearing room. The oral arguments will be open to the public for in-person attendance. Members of the public will be accommodated based on space available in the overflow room on a first-come, first-served basis. The Board will provide a court reporter for the

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<sup>2</sup> Throughout the remainder of this Order, we cite to the papers filed in IPR2015-00969. Similar papers have been filed in IPR2015-00980 and IPR2015-01031.

IPR2015-00969 (Patent 5,884,033)  
IPR2015-00980 (Patent 5,566,287)  
IPR2015-01031 (Patent 7,900,229 B2)

hearing, and the reporter's transcript will constitute the official record of the oral arguments.

The parties will present arguments in IPR2015-00969 starting at 10:00 AM. After a brief recess, the parties then will present arguments in IPR2015-00980. We will break for lunch. Following lunch, the parties will present arguments in IPR2015-01031. Each party will have thirty (30) minutes to present its arguments in each case. Petitioner will open each oral argument by presenting its arguments regarding the challenged claims for which the Board instituted trial. Petitioner may reserve time for rebuttal arguments. Patent Owner then will respond to Petitioner's arguments. Petitioner then may present rebuttal arguments during its reserved rebuttal time.

At least seven (7) business days prior to the oral arguments, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the oral arguments. *See* 37 C.F.R. § 42.70(b). The parties also shall provide the demonstrative exhibits to the Board at least five (5) business days prior to the oral arguments by e-mailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov). The parties shall not file any demonstrative exhibits in these cases without our prior authorization. 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*,

IPR2015-00969 (Patent 5,884,033)  
IPR2015-00980 (Patent 5,566,287)  
IPR2015-01031 (Patent 7,900,229 B2)

IPR2013-00033, (PTAB Oct. 23, 2013) (Paper 118), for guidance regarding the appropriate content of demonstrative exhibits.

The parties should attempt to resolve any objections to demonstratives prior to involving the Board. The parties must initiate a conference call with the Board at least two (2) business days before the hearing to present any unresolved objection regarding the propriety of any demonstrative exhibit. Any unresolved objection to demonstrative exhibits that is not timely presented will be considered waived. The Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice. To aid in the preparation of an accurate transcript, each party shall provide paper copies of its 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 each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number), paper, or exhibit referenced during the oral arguments to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one member of the panel will be attending the oral arguments electronically from a remote location and that if any demonstrative is not made fully available or visible to the judge presiding over the oral arguments, that demonstrative will not be considered. Because of limitations of the audio transmission systems in our hearing rooms, the presenter may speak only when standing at the hearing room lectern. 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.

IPR2015-00969 (Patent 5,884,033)  
IPR2015-00980 (Patent 5,566,287)  
IPR2015-01031 (Patent 7,900,229 B2)

The Board expects lead counsel for each party to be present in person at the oral arguments. If a party anticipates that its lead counsel will not be attending the oral arguments, the parties should initiate a joint telephone conference with the Board no later than seven (7) business days prior to the oral arguments to discuss the matter. Any counsel of record, however, may present the party's arguments.

Lead counsel and back-up counsel may use portable computers in the hearing room at the counsel tables and at the hearing room lectern. The parties are reminded to direct their requests for audio-visual equipment to [Trials@uspto.gov](mailto:Trials@uspto.gov). Requests for special equipment will not be honored unless presented in a separate communication directed to the above e-mail address not less than five (5) days before the oral arguments. If the request is not received timely, the equipment may not be available on the day of the oral arguments.

## ORDER

It is

ORDERED that oral arguments for these proceedings shall take place beginning at 10:00 AM Mountain Time on June 21, 2016, at the Rocky Mountain Regional Office of the USPTO.

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