

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ROBERT BOSCH LLC and DAIMLER AG,
Petitioner,

v.

ORBITAL AUSTRALIA PTY LTD,
Patent Owner.

Case IPR2015-01258 (Patent 5,655,365)
Case IPR2015-01259 (Patent 5,655,365)¹

Before KEN B. BARRETT, JEREMY M. PLENZLER, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ The parties are not authorized to use a joint caption.

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Robert Bosch LLC and Daimler AG (collectively “Petitioner”) and Orbital Australia Pty Ltd (“Patent Owner”) requested oral argument pursuant to 37 C.F.R. § 42.70(a). IPR2015-01258, Papers 24, 25; IPR2015-01259, Papers 22, 23. The requests are *granted*.

The hearing will commence at 9:00 AM ET, on Monday, August 29, 2016, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The Board will provide a court reporter, and the reporter’s transcript will constitute the official record of the hearing.

Each party will have a total of thirty (30) minutes to present arguments for both cases. Petitioner bears the ultimate burden of proof that Patent Owner’s patent claims at issue are unpatentable. Thus, Petitioner will proceed first to present its case with respect to the challenged patent claims and grounds with respect to which the Board instituted trial. Thereafter, Patent Owner will respond to Petitioner’s arguments. Petitioner may reserve some of its argument time to respond to Patent Owner’s presentation.

The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location. 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 transcript and the ability of the judge participating in the hearing remotely to closely follow the presenter’s arguments.

The parties are reminded that the demonstrative exhibits must be served and filed in accordance with 37 C.F.R. § 42.70(b).

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The Board asks that the parties attempt to resolve objections to the demonstratives, and if any objections cannot be resolved, the parties must file those objections with the Board no later than August 24, 2016. 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 may refer to *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) regarding the appropriate content of demonstrative exhibits.

Requests for audio-visual equipment are to be made five (5) 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.

Petitioner requests “that two attorneys at Petitioners’ counsel’s table be allowed to use computers at the hearing (in addition to the counsel making the argument using his or her computer to show the demonstratives), to avoid the need for the parties to bring entire paper copies of the record into the hearing room and to facilitate efficient answering of panel questions.” IPR2015-01258, Paper 24. Each counsel table can accommodate only two people and is sized accordingly. Questions regarding this request should be directed to the Patent Trial and Appeal Board Hearings Clerk at (571) 272-9797.

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We expect lead counsel for each party to be present at the hearing, although lead or back-up counsel of record may make the presentation. If either party anticipates that its lead counsel will not attend the oral argument, the parties should initiate a joint telephone conference with the Board no later than two (2) business days prior to the oral hearing to discuss the matter.

The parties are reminded that, at the oral argument, they “may rely upon evidence that has been previously submitted in the proceeding and may only present arguments relied upon in the papers previously submitted.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). “No new evidence or arguments may be presented at the oral argument.” *Id.*

Accordingly, it is

ORDERED that oral argument will commence at 9:00 AM ET, on Monday, August 29, 2016, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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