

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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RPX CORPORATION,  
Petitioner,

v.

APPLICATIONS IN INTERNET TIME, LLC,  
Patent Owner.

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Case IPR2015-01750  
Patent 8,484,111 B2

Case IPR2015-01751  
Case IPR2015-01752  
Patent 7,356,482 B2<sup>1</sup>

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Before LYNNE E. PETTIGREW, MITCHELL G. WEATHERLY, and  
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

ORDER  
Request for Oral Argument  
*37 C.F.R. § 42.70*

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<sup>1</sup> This order addresses issues common to all cases; therefore, we issue a single order to be entered in each case.

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IPR2015-01751, IPR2015-01752 (Patent 7,356,482 B2)

The Scheduling Orders for these *inter partes* reviews set a date of November 8, 2016, for oral argument, if requested by either party and granted by the Board. IPR2015-01750 (Paper 52); IPR2015-01751 (Paper 52); IPR2015-01752 (Paper 52). Petitioner requested oral hearing pursuant to 37 C.F.R. § 42.70. IPR2015-01750 (Paper 74); IPR2015-01751 (Paper 76); IPR2015-01752 (Paper 74). At the request of the parties, a conference call including Judges Pettigrew, Weatherly, and Chagnon, as well as counsel for the parties, was held on October 25, 2016, to discuss the oral hearing.

The requests for oral hearing are *granted*. The hearing will commence at 1:00 PM EST, on November 8, 2016, on the ninth Floor of the Madison Building East, 600 Dulany Street, Alexandria, Virginia.

The hearing will be open to the public for in-person attendance, which will be accommodated on a first-come, first-serve basis. The parties are reminded that, because the hearing is open to the public, confidential information is not to be discussed during the hearing. Patent Owner's counsel expressly indicated during the October 25, 2016, conference call that confidential information would not be discussed during the hearing.

The patents at issue in these *inter partes* reviews are directed to similar subject matter and are challenged on similar grounds by the same Petitioner. We, therefore, exercise our discretion to consolidate the oral hearings in these cases. The transcript will be entered into each proceeding; however, any argument or evidence presented by a party at the consolidated hearing will be applicable only in the proceeding in which the record provides a proper foundation for such argument or evidence.

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Each side will have ninety (90) minutes total to present its argument, and may divide the time between the cases as it wishes. The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

The parties are responsible for allocating their total argument time among the three cases. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, Petitioner will open the hearing by presenting argument relating to the challenged claims for which we instituted trial. Petitioner may reserve some argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's arguments. Petitioner's rebuttal argument, if presented, will be limited to addressing issues raised during Patent Owner's responsive argument. Patent Owner may not reserve time for rebuttal.

During the conference call, the parties questioned whether arguments included in the Patent Owner Preliminary Response, but not expressly included in the Patent Owner Response, could be presented at the oral hearing. We informed the parties that arguments presented at the oral hearing should be within the scope of the arguments presented in the trial papers (i.e., Petition, Patent Owner Response, Petitioner's Reply, and Patent Owner's Sur-Reply). At the oral hearing, either party may bring to the panel's attention that it believes a particular argument presented by the other party is not supported by the trial papers.

Under 37 C.F.R. § 42.70(b), the parties shall serve demonstrative exhibits upon each other no later than October 28, 2016. The parties also shall provide a courtesy copy of the demonstrative exhibits to the Board no later than November 3, 2016, by e-mailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov). Each

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party shall provide a hard copy of their demonstratives to the court reporter at the hearing. Notwithstanding 37 C.F.R. § 42.70(b), the parties shall *not* file any demonstrative exhibits in this proceeding without prior authorization from the Board. Further, the parties are directed to refrain from including confidential information in any demonstrative exhibit.

The parties must meet and confer in good faith to resolve any objections to demonstrative exhibits prior to submitting courtesy copies to the Board. If any objection cannot be resolved, the objecting party may file a statement of objections with the Board no later than November 3, 2016. The objections should identify with particularity which demonstrative exhibits 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. Any objection to demonstrative exhibits that is not timely presented will be deemed waived. No response to objections shall be filed by either party. 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 hearing. 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), for guidance regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present in person at the hearing. Lead or backup counsel, however, may present the party's argument. If either party anticipates that its lead counsel will not be attending the hearing, that party should initiate a joint telephone conference with the other party and the Board no later than November 3, 2016 to discuss

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the matter. As indicated during the conference call, Patent Owner is authorized to file an updated mandatory notice adding Mr. Steven Sereboff *as back-up counsel only*. If an updated mandatory notice is filed, Mr. Sereboff may present arguments at the oral hearing; however, lead counsel for Patent Owner, currently Mr. Jonathan Pearce, must also be present at the oral hearing.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment are to be made by e-mail to [Trials@uspto.gov](mailto:Trials@uspto.gov) at least five business days in advance of the hearing date. If the request is not received timely, the equipment may not be available on the day of the hearing.

Accordingly, it is:

ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 1:00 PM EST, on November 8, 2016, on the ninth Floor of the Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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