

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ANCESTRY.COM DNA, LLC,
Petitioner,

v.

DNA GENOTEK INC.,
Patent Owner.

Case IPR2016-00060
Patent 8,221,381 B2

Before WILLIAM V. SAINDON, HYUN J. JUNG, and
MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

WORMMEESTER, *Administrative Patent Judge*.

ORDER
Request for Oral Hearing
37 C.F.R. § 42.70

The Scheduling Order for this case sets the date for oral hearing as December 6, 2016, if a hearing is requested by the parties and granted by the Board. Paper 20. Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. The parties' request for oral hearing are granted.

Petitioner will have 30 minutes to present argument in this case. Patent Owner will have 30 minutes to respond. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in this review are unpatentable. Therefore, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner.

The hearing will commence at 10 A.M. ET on December 6, 2016, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

Furthermore, demonstrative exhibits must be served at least seven business days before the hearing date. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the hearing by e-mailing them to Trials@uspto.gov. The parties shall not file any demonstrative exhibits in this proceeding without prior authorization from the Board.

The parties shall meet and confer to resolve any objections to demonstrative exhibits. The parties must file any unresolved objections to

the demonstratives with the Board at least 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. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The parties are reminded that each 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.

The Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party's argument. The parties may divide argument among counsel as they wish. Should there be any disagreement among the parties on the division of argument, the parties shall meet and confer in advance of the hearing to try to resolve the dispute, and, if necessary, contact the Board for assistance.

If any party expects that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

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Any special requests for audio visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication not less than five days before the hearing directed to the above e-mail address.

It is

ORDERED that oral argument will commence at 10 A.M. ET on December 6, 2016 in Alexandria, Virginia.

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