

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2015-02001
Case IPR2016-00157¹
Patent 8,255,408

Before THOMAS L. GIANNETTI, MIRIAM L. QUINN, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

ORDER
Requests for Oral Argument
37 C.F.R. § 42.70

¹ Case IPR2016-00157 has been consolidated with IPR2015-02001 (“the consolidated proceeding”). Cases IPR2016-00955 and IPR2016-00956 have been consolidated and joined with the consolidated proceeding.

IPR2015-02001
IPR2016-00157
Patent 8,255,408 B2

The date set for oral hearing in each of these proceedings is January 5, 2017, if hearing is requested by either party and granted by the Board. Paper 8.² Both parties request oral hearing. Papers 28, 30. The requests are *granted*.

Each side will have 60 minutes, total, to present its argument. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in these reviews are unpatentable. Both parties have filed Motions to Exclude Evidence of the other party, and respectively bear the burden of proof with respect to those Motions. Accordingly, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial, including addressing, if it wishes, its Motion to Exclude. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument, and argue, if it wishes, in support of its Motion to Exclude.

Each side may reserve time to respond to arguments presented by the other side, with some limitations. Specifically, to the extent that Petitioner reserves rebuttal time, it may respond to Patent Owner's presentation on all matters. To the extent Patent Owner reserves rebuttal time, however, it may respond only to Petitioner's arguments opposing Patent Owner's Motion to Exclude and Patent Owner's arguments concerning secondary considerations of nonobviousness.

² All citations to the record in this Order are to IPR2015-02001.

IPR2015-02001
IPR2016-00157
Patent 8,255,408 B2

The hearing will commence at 1:30 PM Eastern Standard Time on January 5, 2017, 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. At least one member of the panel may be attending the oral argument remotely by use of two-way audio-visual communication equipment. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. If the parties have any concern about disclosing confidential information, they are requested to contact the Board at least 10 days in advance of the hearing to discuss the matter.

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, under 37 C.F.R. § 42.70(b), 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 seven business days prior to the hearing by emailing them to Trials@uspto.gov. The parties shall *not* file any demonstrative exhibits in this proceeding without prior authorization from the Board.

The parties must file any objections to the demonstrative exhibits with the Board at least two business days before the hearing. Any objection to

IPR2015-02001
IPR2016-00157
Patent 8,255,408 B2

demonstrative exhibits that is not timely presented will be considered waived. 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. 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 Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either 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.

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 email address.

IPR2015-02001
IPR2016-00157
Patent 8,255,408 B2

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