

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION,
Petitioner,

v.

RAYTHEON COMPANY,
Patent Owner.

Case IPR2015-01201
Case IPR2016-00209¹
Patent 5,591,678

Before JO-ANNE M. KOKOSKI, JENNIFER MEYER CHAGNON, and
JEFFREY W. ABRAHAM *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

ORDER
Conduct of the Proceedings
37 C.F.R. § 42.5
Request for Oral Argument
37 C.F.R. § 42.70

¹ Case IPR2016-00962 has been joined with IPR2016-00209. *See* IPR2016-00209, Paper 29. Samsung Electronics, Co., Ltd.; Samsung Electronics America, Inc.; and Samsung Semiconductor, Inc. are included as additional Petitioners in IPR2016-00209.

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The updated Scheduling Orders for these *inter partes* reviews set a date of October 13, 2016, for oral argument, if requested by either party and granted by the Board. IPR2015-01201, Paper 35; IPR2016-00209, Paper 21. Both parties requested oral hearing pursuant to 37 C.F.R. § 42.70. IPR2015-01201, Papers 52, 53; IPR2016-00209, Papers 33, 34. At the request of the Board, on September 21, 2016, a conference call including Judges Kokoski, Chagnon, and Abraham, as well as counsel for Petitioner Sony and Patent Owner Raytheon, was held to discuss the logistics of the oral hearing for the proceedings.

The requests for oral hearing are *granted* to the extent set forth below and subject to the following conditions. The hearing will commence at 1:00 PM EDT, on October 13, 2016, on the ninth Floor of the Madison Building East, 600 Dulany Street, Alexandria, Virginia. Because the two proceedings relate to the same patent, and as requested by the parties, the oral arguments for these proceedings will be merged and conducted as a consolidated hearing. 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.

Each side will have seventy-five (75) 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 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 transcript.

Seating in the hearing room will be accommodated on a first-come, first-served basis, until such time as the hearing room is closed to the public for presentation of argument and evidence that discloses information that has been designated as confidential in these proceedings. In that regard, the parties have requested that the hearing room be closed to the public for a portion of the hearing to allow for presentation of confidential information. As set forth below, up to sixty (60) minutes of the total time allotted for the consolidated oral hearing shall be closed to the public to provide an opportunity for presentation of argument and evidence relating to confidential information.

The parties are responsible for allocating their total argument time among the two cases, including any argument pertaining to pending motions or procedural matters. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, Petitioner will open the hearing by presenting up to forty five (45) minutes of argument relating to the challenged claims for which we instituted trial. Before commencing that opening presentation, Petitioner may reserve some argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's arguments, having forty five (45) minutes as its allotted time for responsive argument. Petitioner's rebuttal argument, if presented, will be limited to addressing issues raised during Patent Owner's responsive argument.

At the conclusion of any rebuttal presentation, the courtroom shall be closed to persons not authorized to access confidential information.² The

² As discussed during the conference call, the parties shall file as an exhibit a copy of the Protective Order Acknowledgment signed by each person to be present during the closed portion of the hearing.

court reporter shall be directed to mark as confidential the remaining portion of the transcript. Petitioner may open with up to thirty (30) minutes of argument relating to confidential information in a session closed to the public, and may reserve argument time for rebuttal. Patent Owner shall have thirty (30) minutes to present its arguments relating to confidential information. Petitioner's rebuttal argument, if presented, will be limited to addressing issues raised during Patent Owner's responsive argument.

Either party may, at the beginning of the hearing, indicate it wishes to allocate more of its time to the open portion of the hearing. Neither party, however, shall be allotted more than thirty (30) minutes during the closed session, or more than seventy-five (75) minutes total. Time not used during the open portion of the hearing may not be reserved for use during the closed portion.

Furthermore, under 37 C.F.R. § 42.70(b), the parties shall serve demonstrative exhibits upon each other no later than October 3, 2016. The parties also shall provide a courtesy copy of the demonstrative exhibits to the Board no later than October 7, 2016, by e-mailing them to Trials@uspto.gov. Each 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. During the portion of the hearing that is closed to the public, either party may direct the panel to specific confidential information being discussed by exhibit, page, and line number in the record.

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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 October 7, 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 three business days prior to the hearing to discuss the matter.

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 at least five

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