

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRAXAIR DISTRIBUTION, INC.,
Petitioner,
v.
INO THERAPEUTICS LLC,
Patent Owner.

Case IPR2015-00529
Patent 8,846,112 B2

Before LORA M. GREEN, TINA E. HULSE,
and ROBERT A. POLLOCK, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

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

The Scheduling Order (Paper 13) for these proceedings provided that an oral hearing would be conducted if the hearing is requested by the parties and granted by the Board. Patent Owner and Petitioner requested oral hearing pursuant to 37 C.F.R. § 42.70. Papers 40, 41. The requests are *granted*.

Each side will have 45 minutes to present argument. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue are unpatentable. Thus, Petitioner will open the hearing by presenting its case regarding the

Mallinckrodt Hosp. Prods. IP Ltd. Exhibit 2018 Praxair Distrib., Inc. et al., v. Mallinckrodt Hosp. Prods. IP Ltd. Case IPR2016-00779

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challenged claims for which we instituted trial. Petitioner may reserve some of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's presentation. Petitioner may then use the time it has reserved to reply to Patent Owner's presentation.

The hearing will commence at 1:00 PM on Tuesday, March 29, 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 and will be entered in the record of each proceeding. 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 shall serve any demonstrative exhibits on opposing counsel at least five business days before 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. 37 C.F.R. § 42.5(b). Demonstrative exhibits are intended to be visual aids to assist a party in making its oral presentation and will not be entered into the record of these proceedings. The parties shall, however, provide a courtesy copy of any demonstrative exhibits to the Board no later than three business days before the hearing by emailing them to Trials@uspto.gov.

The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties shall confer with each other regarding any objections to demonstrative exhibits. For any issue that cannot be resolved after conferring, the parties may each file a one-page list of objections at least three business days before the hearing. The list should identify with particularity which demonstrative

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exhibits are subject to objection and include a short statement (no more than one sentence) of the reason for each objection. No argument or further explanation is permitted.

The Board will consider the objections and schedule a telephone conference if deemed necessary. *See CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118) (stating that the Board has the discretion to limit the parties' demonstratives to pages in the record should there be no easy resolution to objections over demonstratives). Otherwise, the Board will reserve ruling on the objections until after the oral argument. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

The parties are advised that at least one member of the panel will be attending the hearing 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 remotely to follow the presenter's arguments.

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 audiovisual equipment should be directed to Trials@uspto.gov. We note that both parties have requested audio-visual equipment for their respective presentations. (Paper 40, 2; Paper 41, 2). The

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parties must submit any such request for special equipment in a separate communication not less than five days before the hearing, directed to the above email address.

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