

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

CHESTNUT HILL SOUND INC.,
Patent Owner

Case IPR2016-00794
Patent 8,090,309

PETITIONER'S REQUEST FOR ORAL ARGUMENT

Pursuant to 37 C.F.R. § 42.70(a) and the Scheduling Order (Paper 10), Petitioner submits this Request for Oral Argument on all of the instituted grounds of unpatentability of U.S. Patent No. 8,090,309. Petitioner requests that each party receives 30 minutes to present its arguments.

With regard to this particular proceeding, Petitioner requests (without waiving consideration of any issue not listed below) to address the following issues:

1. Claims 1-14 are obvious under 35 U.S.C. § 103 (a) over Baumgartner and AbiEzzi;
2. Reply and rebuttal to Patent Owner's presentation on all matters, including any motions Patent Owner may bring; and
3. Any issues on which the Board seeks clarification, including the briefing on Motions to Exclude.

Petitioner opposes Patent Owner's request to reserve a portion of its time for after Petitioner's presentation, as well as Patent Owner's request to argue, for the first time at the Oral Argument, Patent Owner's belief that Petitioner's reply exceeds the proper scope of a reply. Patent Owner has made no attempt to address any alleged impropriety of Petitioner's reply in the papers, for example by

requesting a sur-reply. To argue such for the first time at Oral Argument would, itself, be prohibited new argument. It is well established that at the Oral Argument, a party “may only present arguments relied upon in the papers previously submitted.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48768 (Aug. 14, 2012). Moreover, Patent Owner has made no attempt to confer with Petitioner about its request to reserve time, nor has Patent Owner attempted to resolve, with Petitioner, any issues Patent Owner believes are new argument or new evidence. Thus, Patent Owner’s request should be denied.

The Board has already scheduled Oral Argument for April 20, 2017. *See* Scheduling Order of September 23, 2016, Paper No. 10.

Petitioner also requests that visual projector equipment, such as an ELMO-type projector, be made available for use during the Oral Argument, and Petitioner will separately contact trials@uspto.gov to request the equipment.

Respectfully submitted,

Date: March 16, 2017

/Joshua A. Griswold/

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Attorney for Petitioner

