

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE INC., HTC CORPORATION, and HTC AMERICA, INC.,

Petitioner,

v.

PARTHENON UNIFIED MEMORY ARCHITECTURE LLC,

Patent Owner.

---

Case IPR2016-00923 (Patent 5,812,789)<sup>1</sup>  
Case IPR2016-00924 (Patent 5,960,464)<sup>2,3</sup>

---

Before MICHAEL R. ZECHER, JAMES B. ARPIN, and  
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

ORDER

Oral Argument

35 U.S.C. 316(a)(10) and 37 C.F.R. § 42.70

---

<sup>1</sup> Case IPR2016-00847 has been joined with this proceeding.

<sup>2</sup> Case IPR2016-00848 has been joined with this proceeding.

<sup>3</sup> This Order addresses an issue that is identical in both cases. We, therefore, exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

IPR2016-00923 (Patent 5,812,789)

IPR2016-00924 (Patent 5,960,464)

On August 23, 2016, we instituted an *inter partes* review as to claims 1, 3–6, 11, and 13 of U.S. Patent No. 5,812,789. Case IPR2016-00923, Paper 10. Also, on August 23, 2016, we instituted an *inter partes* review as to claims 1–4, 7–13, 16–24, 32–36 and 40 of U.S. Patent No. 5,960,464. Case IPR2016-00924, Paper 10. We issued a Scheduling Order in both proceedings that included the same DUE DATES. Case IPR2016-00923, Paper 11; Case IPR2016-00924, Paper 11. Both parties request oral argument for these proceedings pursuant to 37 C.F.R. § 42.70(a). Case IPR2016-00923, Papers 28, 29; Case IPR2016-00924, Papers 28, 29. The parties’ requests are *granted*.

Petitioner entities, Apple, Inc., HTC Corporation, and HTC America, Inc. (collectively, “Apple”), request one (1) hour, in total, to present oral arguments for Cases IPR2016-00923 (Paper 29, 2) and IPR2016-00924 (Paper 29, 2). Patent Owner, Parthenon Unified Memory Architecture LLC (“Parthenon”), does not request a specific amount of oral argument time for Cases IPR2016-00923 (Paper 28) and IPR2016-00924 (Paper 28). We have reviewed the issues that the parties intend to address for each proceeding, and we agree with Apple that each party should be accorded one (1) hour of total time to present oral arguments for both proceedings. The hearings for these two cases shall be conducted seriatim. On or before May 4, 2017, Apple shall confer with Parthenon and shall inform Parthenon and the Board (via e-mail to [Trials@uspto.gov](mailto:Trials@uspto.gov)) how much of its allotted time it shall use for each proceeding.

Apple bears the ultimate burden of proof that the challenged claims are unpatentable based on the grounds of unpatentability (“grounds”) instituted in these proceedings. 35 U.S.C. § 316(e). Apple, therefore, will proceed first to present its case as to the challenged claims and the grounds instituted in Case IPR2016-00923. Apple may reserve rebuttal time. Thereafter, Parthenon will respond to Apple’s case. Apple then will make use of its rebuttal time to respond

IPR2016-00923 (Patent 5,812,789)

IPR2016-00924 (Patent 5,960,464)

to Parthenon's case. After completion of all the parties' arguments in Case IPR2016-00923, the parties then will proceed to follow this same procedure for Case IPR2016-00924.

The consolidated hearing will commence at 1:00 PM Eastern Time on Thursday, May 18, 2017, and it will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia (Hearing Room A). In-person attendance will be accommodated on a first-come first-serve basis. We will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served no later than seven (7) business days before the hearing date. They shall be filed with the Board no later than the time of the hearing. **Demonstrative exhibits are not evidence, but merely a visual aid for use at the hearing.** Demonstrative exhibits shall not introduce new arguments or evidence. The parties must initiate a conference call with us at least two (2) business days prior to the hearing date to resolve any dispute over the propriety of each party's demonstrative exhibits. Regardless of whether the propriety of any demonstrative exhibit is disputed by either party, we consider demonstrative exhibits only to the extent (1) that they elucidate the parties' arguments presented during the hearing *and* (2) that they include only arguments and/or evidence already of record in the proceedings. For further guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118).

We expect lead counsel for each party to be present at the hearing; however, any backup counsel may make the actual presentation, in whole or in part. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012). If lead counsel for either party is unable to attend the hearing, the parties shall

IPR2016-00923 (Patent 5,812,789)

IPR2016-00924 (Patent 5,960,464)

request a joint telephone conference call no later than two (2) business days prior to the hearing date to discuss the matter.

We take this opportunity to remind the parties 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 parties also should note that two members of the panel will be attending the hearing electronically from remote locations. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to each of the Administrative Patent Judges presiding over the hearing, the parties are invited to contact the Board at 571-272-9797.

Requests for special accommodations or audio-visual equipment are to be made at least five (5) business days in advance of the hearing date. Such requests must be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the requests are not received timely, requested accommodations and/or equipment may not be available on the day of the hearing.

IPR2016-00923 (Patent 5,812,789)

IPR2016-00924 (Patent 5,960,464)

For PETITIONER:

Andrew S. Ehmke

David W. O'Brien

HAYNES AND BOONE, LLP

andy.ehmke.ipr@haynesboone.com

david.obrien.ipr@haynesboone.com

For PATENT OWNER:

Massod Anjom

Scott Clark

AHMAD, ZAVITSANOS, ANAIPAKOS,

ALAVI & MENSING P.C.

manjom@azalaw.com

sclark@azalaw.com