

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

PERSONALIZED MEDIA COMMUNICATIONS LLC,
Patent Owner.

Case IPR2016-01520
Patent 8,559,635 B1

Before KARL D. EASTHOM, KEVIN F. TURNER, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

On February 15, 2017, we entered a Decision to Institute a trial proceeding in IPR2016-01520. Paper 7. A Scheduling Order in the case set the date for oral hearing, if requested by either party, as October 26, 2017. Paper 8. Pursuant to 37 C.F.R. § 42.70, both parties have requested an oral hearing. Papers 32, 33. Petitioner's and Patent Owner's requests for oral hearing are *granted*.

The oral argument for this case will be heard on **Thursday, October 26, 2017**, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will commence at **1:00 PM Eastern Time**. The hearing will be open to the public for in-person attendance. In person attendance will be accommodated on a first-come-first-served basis. If the parties have any concern about disclosing confidential information, they are to contact the Board at least five (5) business days in advance of the hearing to discuss the matter. The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing.

Each party will have forty five (45) minutes of total time to present arguments. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable, and Patent Owner bears the burden of proof with respect to its Contingent Motion to Amend. Petitioner will proceed first to present its case with regard to the challenged claims and grounds on which we instituted trial. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument and also argue in support of its Contingent Motion to Amend.

Each side may reserve time to respond to arguments presented by the other side with some limitations. More specifically, to the extent that

Petitioner reserves rebuttal time, it may respond to Patent Owner's presentation on all matters. Patent Owner may respond only to Petitioner's arguments opposing the motion to amend in rebuttal.

Furthermore, pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven (7) business days before the hearing. The parties shall provide a courtesy copy of any demonstrative exhibits to the Board at least three (3) business days prior to the hearing by emailing them to Trials@uspto.gov. The parties shall not file any demonstrative exhibits in the records of these proceedings without prior authorization from the Board. The demonstrative exhibits in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the Board.

The parties must, however, file any objections to the demonstratives with the Board at least three (3) business days before the hearing. Any objection to the demonstrative exhibits that is not presented timely will be considered waived. The objections should identify with particularity which demonstratives 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 at oral hearing, although any backup counsel may make the actual presentation, in

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whole or in part. If lead counsel for either party will not be in attendance at oral hearing, the Board should be notified via a joint telephone conference call no later than three (3) 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 (5) business days before the hearing directed to the above email address.

Multiple judges will be participating remotely via a videoconferencing device and will not be able to view the projection screen in the hearing room. 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 avoid confusion, and to ensure the clarity and accuracy of the reporter's transcript.

Accordingly, it is **ORDERED** that the oral argument shall commence at **1:00 PM Eastern Time, on Thursday, October 26, 2017**, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia as set forth above.

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