

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

REALTIME DATA LLC,
Patent Owner.

Case IPR2016-01737 (Patent 8,880,862)
Case IPR2016-01738 (Patent 8,880,862)
Case IPR2016-01739 (Patent 8,880,862)¹

Before GEORGIANNA W. BRADEN and
JASON J. CHUNG, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

ORDER
Oral Argument
37 C.F.R. § 42.70

¹ The Order concerns a matter applicable to all proceedings. We exercise our discretion to file a single Order in the cases. The parties, however, are not authorized to use this caption.

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In March 2017, we entered Decisions to Institute a trial proceedings in IPR2016-01737, IPR2016-01738, and IPR2016-01739. Paper 7.² An Amended Scheduling Order in each case set the date for oral hearing, if requested by either party, as January 8, 2018. Paper 34. Pursuant to 37 C.F.R. § 42.70, both parties have requested oral hearing. Papers 41, 42. Petitioner's and Patent Owner's requests for oral hearing are *granted*.

Oral argument for this proceeding will be held on January 8, 2018 on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will commence at 1:00 PM Eastern Time and it 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 three (3) business days in advance of the hearing to discuss the matter.

Each party will have ninety (90) minutes of total time to present arguments for all three cases. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, Petitioner will proceed first to present its cases with regard to the challenged claims and grounds on which we instituted trial in IPR2016-01737, IPR2016-01738, and IPR2016-01739. Patent Owner then will argue its oppositions to Petitioner's cases. Petitioner may reserve rebuttal time. Although Patent Owner does not bear the burden of proof with regards

² All citations are to the record in IPR2016-01737.

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to its motion to amend claims in IPR2016-01737 and IPR2016-01738, it nonetheless, may reserve rebuttal time to respond only to Petitioner's argument regarding the proposed substitute claims.

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 under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

Furthermore, pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five (5) business days before the hearing. **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 shall serve objections to each other at least four (4) business days before the hearing. The parties shall meet and confer in good faith in an attempt to resolve objections. For any unresolved objections, the parties must, file the 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

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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 parties shall file demonstrative exhibits into the records of these proceedings at least three (3) business days prior to the hearing. The parties also 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 Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in 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.

At least one judge will be participating remotely via a videoconferencing device and will not be able to view the projection

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screen in the hearing room. Thus, overhead projectors or elmos are unavailable for 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 avoid confusion, and to ensure the clarity and accuracy of the reporter's transcript.

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