

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00210 (Patent 7,116,710 B1)
Case IPR2017-00219 (Patent 7,116,710 B1)
Case IPR2017-00297¹ (Patent 7,916,781 B2)²

Before KEN B. BARRETT, TREVOR M. JEFFERSON, and
JOHN A. HUDALLA, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

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

¹ Case IPR2017-00423 has been consolidated with this proceeding.

² This Order pertains to all of these cases. Therefore, we exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this style of heading for any subsequent papers.

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Petitioner and Patent Owner each request oral hearings pursuant to 37 C.F.R. § 42.70(a). *See* IPR2017-00210, Papers 56, 58; IPR2017-00219, Papers 55, 57; IPR2017-00297, Papers 48, 50. The requests are *granted*.

Each side will have 30 minutes to present its arguments in each case. Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable. *See* 35 U.S.C. § 316(e). Therefore, at each hearing, Petitioner will proceed first to present its case as to the challenged claims, and may reserve rebuttal time. Patent Owner then will respond to Petitioner's case. After that, Petitioner may use the rest of its time to respond to Patent Owner's presentation.

The hearings will begin at **9:30 AM on Thursday, April 19, 2018**, and proceed in the following order: IPR2017-00210, IPR2017-00219, IPR2017-00297. The hearings will be open to the public for in-person attendance on the **ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia**. One or more judges of the panel may attend remotely. In-person attendance will be accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearings, and the reporter's transcript will constitute the official record of the hearings. If the parties have any concern about disclosing confidential information, they are to contact the Board at least ten days before the hearings to discuss the matter.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days prior to the hearings. The parties shall meet and confer regarding any objections to demonstrative exhibits, and the parties shall file demonstrative exhibits with the Board at least three business days

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prior to the hearings. If any issues regarding demonstratives remain unresolved after the parties meet and confer, the parties shall file jointly a one-page list of objections at least three business days prior to the hearings. The list should identify with particularity which demonstrative 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. We will consider the objections and schedule a conference call if necessary. Otherwise, we will reserve ruling on the objections until the hearings or after the hearings. Any objection to demonstrative exhibits that is not presented timely will be considered waived. Each party also shall provide a hard copy of its demonstrative exhibits to the court reporter at the hearing.

The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, No. IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), regarding the appropriate content of demonstrative exhibits. 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 hearings to ensure the clarity and accuracy of the reporter's transcript.

The Board expects lead counsel for Petitioner and Patent Owner to be present at the hearings, though any back-up counsel may make the actual presentation, in whole or in part. If lead counsel for any party will not be in attendance at the hearings, the Board should be notified via a joint conference call no later than three days prior to the hearings to discuss the matter.

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Requests for audio-visual equipment at the hearing are to be made five days in advance of the date of the hearings. The requests must be sent to *Trials@uspto.gov*. If the requests are not received timely, equipment may not be available on the day of the hearings.

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