

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

ANDREA ELECTRONICS CORP.,
Patent Owner.

Cases IPR2017-00626 and IPR2017-00627
Patent 6,363,345 B2

Before STEPHEN C. SIU, MICHAEL R. ZECHER, and
JEREMY M. PLENZLER, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

The parties have requested an oral hearing pursuant to 37 C.F.R. § 42.70. IPR2017-00626, Papers 21 and 22; IPR2017-00627, Papers 19 and 20. The request for an oral hearing is *granted*. The oral hearing will commence at 1:00 PM Eastern Time on April 25, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

The panel encourages the parties not to use the oral argument time to provide an overview of their case. Instead, the panel encourages each party, after some initial remarks, to focus on specific issues it would like to highlight or clarify, starting with those the party deems most important to discuss with the Board. It is the panel's experience that long slide decks sequentially stepping through each issue in a case is not the most effective use of the hearing. The panel will make its decision based on the written briefs; however, oral hearing is the parties' opportunity to clarify the panel's understanding of the evidence and the parties' positions in the briefs.

Each side will have forty-five minutes to present arguments. Petitioner bears the ultimate burden of proof that the claims at issue in these reviews are unpatentable. 35 U.S.C. § 316(e) (“[T]he petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”). Petitioner will, therefore, begin by presenting its case regarding the challenged claims and grounds for which the Board instituted trial in these proceedings. Patent Owner will then respond to Petitioner's arguments. Petitioner may reserve time to reply to arguments presented by Patent Owner.

The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The Board will

provide a court reporter, and the transcript shall constitute the official record of the hearing and be entered in each proceeding.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days before the hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board by the end of day, April 19, 2018, by emailing them to Trials@uspto.gov. The parties shall not file any demonstrative exhibits in this proceeding, without prior authorization from the Board. For guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc. v. Wireless Sciences LLC*, IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118). No live testimony from any witness will be taken at the oral argument.

At least one member of the panel will be attending the conference via remote video link. Physical exhibits and the projector screen will not be viewable to this judge. The parties should prepare accordingly. Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment are to be made no later than five days in advance of the hearing date. The request is to be sent to Trials@uspto.gov, and any request not sent separately and specifically to that email address will not be considered. If the request is not received timely, the equipment may not be available on the day of the hearing.

IPR2017-00626/627
Patent 6,363,345 B2

PETITIONER:

Jeffrey Kushan
jkushan@sidley.com

Steven Baik
sbaik@sidley.com

Thomas Broughan
tbroughan@sidley.com

PATENT OWNER:

William Belanger
belangerw@pepperlaw.com

Andrew Schultz
schultza@pepperlaw.com

Griffin Mesmer
mesmerg@pepperlaw.com