

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CALIFORNIA INSTITUTE OF TECHNOLOGY,
Patent Owner.

Case IPR2017-00700 (Patent 7,421,032 B2)
Case IPR2017-00701 (Patent 7,421,032 B2)
Case IPR2017-00728 (Patent 7,421,032 B2)¹

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

BARRETT, *Administrative Patent Judge*.

ORDER
Oral Argument
37 C.F.R. § 42.70

¹ This Decision will be entered in each case. The parties are not authorized to use this caption style.

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IPR2017-00728 (Patent 7,421,032 B2)

Petitioner Apple Inc. and Patent Owner California Institute of Technology requested oral argument pursuant to 37 C.F.R. § 42.70(a). The requests are *granted*.

The hearings will commence at 9:00 AM ET, on Tuesday, May 8, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearings 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 reporter's transcript will constitute the official record of the hearings.

The hearings for the three subject cases will be conducted separately and sequentially, and will proceed in the following order: IPR2017-00700, IPR2017-00701, and IPR2017-00728. Each party will have a total of thirty (30) minutes to present arguments for each case. Petitioner bears the ultimate burden of proof that Patent Owner's patent claims at issue are unpatentable. Thus, in each case: Petitioner will proceed first to present its case with respect to the challenged patent claims and grounds for which the Board instituted trial; thereafter, Patent Owner will respond to Petitioner's arguments; and Petitioner may reserve some of its argument time to respond to Patent Owner's presentation.

The parties also should note that at least one member of the panel may be attending the hearing by video from a remote location. 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 ensure the clarity and accuracy of the reporter's transcript and the

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ability of any judge participating in the hearing remotely to closely follow the presenter's arguments.

The parties are reminded that the demonstrative exhibits must be served and filed in accordance with 37 C.F.R. § 42.70(b). Additionally, the parties are requested to provide a courtesy copy of any demonstrative exhibits to the Board by emailing them to Trials@uspto.gov no later than 4 pm ET on Monday, May 7, 2018.

The Board asks that the parties attempt to resolve objections to the demonstratives, and, if any objections cannot be resolved, the parties must file those objections with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented 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 may refer to *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) regarding the appropriate content of demonstrative exhibits.

Requests for audio-visual equipment are to be made five (5) business days in advance of the hearing date. Any request is to be sent

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to Trials@uspto.gov. **If the request is not received timely, the equipment may not be available on the day of the hearing.**

The Board expects lead counsel for each party to be present at the hearings, although lead or back-up counsel of record may make the presentation. If either party anticipates that its lead counsel will not attend the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

The parties are reminded that, at the oral argument, they “may rely upon evidence that has been previously submitted in the proceeding and may only present arguments relied upon in the papers previously submitted.”

Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768

(Aug. 14, 2012). “No new evidence or arguments may be presented at the oral argument.” *Id.*

Accordingly, it is

ORDERED that oral argument will commence at 9:00 AM ET, on Tuesday, May 8, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

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