

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP,
Petitioner,

v.

III HOLDINGS 4, LLC
Patent Owner.

Case IPR2017-00781
Case IPR2017-00782
Patent 8,654,999 B2

Before SALLY C. MEDLEY, DAVID C. MCKONE, and
KIMBERLY MCGRAW, *Administrative Patent Judges*.

MCKONE, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

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The Scheduling Order set May 1, 2018, as the date for oral argument, if requested by the parties and granted by the Board. Paper 9.¹ Both Petitioner and Patent Owner have requested oral argument. Papers 16, 18. Patent Owner requests 60 minutes per side to present collective arguments for both cases. Paper 18. Petitioner does not request a specific allocation of time.

The parties' requests for oral argument are granted. Oral arguments will commence at 1:00 pm Eastern Time on May 1, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. We will hold a combined hearing for IPR2017-00781 and IPR2017-00782 starting at 1:00 pm. Each party is allotted sixty (60) minutes total to present its case. Petitioner will open the hearing by presenting its arguments regarding the challenged claims for which the Board instituted trial. Petitioner may reserve time for rebuttal arguments. Patent Owner will then respond to Petitioner's arguments and present arguments regarding its Motions to Exclude. Petitioner may then present rebuttal arguments and respond to Patent Owner's arguments regarding its Motions to Exclude. Patent Owner may then present rebuttal arguments regarding its Motions to Exclude only. No other arguments or motions may be presented.

The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official records of the hearing. The hearing will be open to the public via in-person attendance on a first-come, first-served basis.

¹ We refer to the papers filed in IPR2017-00781. Similar papers were filed by the parties in IPR2017-00782.

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At least seven (7) business days prior to the hearing, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing. *See* 37 C.F.R. § 42.70(b). The parties should attempt to work out any objections to demonstratives prior to involving the Board. At least two (2) business days prior to the hearing, the parties shall file the demonstrative exhibits with the Board. *See id.* The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties must initiate a conference call with the Board at least two business days before the hearing to present any objection regarding the propriety of any demonstrative exhibit. Any objection to demonstrative exhibits that is not timely presented will be considered waived. As demonstrative exhibits are not themselves evidence, the Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice.

The parties are reminded that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during each hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location and that if a demonstrative is not filed or otherwise made fully available or visible to the judge presiding over the hearing, that demonstrative will not be considered. The parties also should note that a panel member appearing remotely might not be able to hear the parties unless they speak into the microphone at the podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and

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available to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present in person at the hearing. If a party anticipates that its lead counsel will not be attending the oral arguments, 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. Any counsel of record, however, may present the party's argument.

The parties are reminded to direct their requests for audio-visual equipment to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the above email address not less than five days before the hearing. If the request is not received timely, the equipment may not be available on the day of the hearing.

ORDER

It is

ORDERED that oral arguments for these proceedings shall take place beginning at 1:00 pm Eastern Time on May 1, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria.

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PETITIONER:

Donald Steinberg
Yung-Hoon Ha
Haixia Lin
Christopher O'Brien
Vera Shmidt
WILMER, CUTLER, PICKERING, HALE and DORR LLP
don.steinberg@wilmerhale.com
sam.ha@wilmerhale.com
haixia.lin@wilmerhale.com
christopher.obrien@wilmerhale.com
vera.shmidt@wilmerhale.com

PATENT OWNER:

Henry Petri
James Murphy
Margaux Savee
POLSINELLI PC
hpetri@polsinelli.com
jpmurphy@polsinelli.com
msavee@polsinelli.com

Tim Seeley
Russell Rigby
INTELLECTUAL VENTURES
tims@intven.com
rrigby@intven.com