

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FLIR SYSTEMS, INC. and  
FLIR MARITIME US, INC. (F/K/A RAYMARINE, INC.),  
Petitioner,

v.

GARMIN SWITZERLAND GmbH,  
Patent Owner.

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Case IPR2017-00946  
Patent 7,268,703 B1

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Before JUSTIN T. ARBES, THOMAS L. GIANNETTI, and  
SCOTT B. HOWARD, *Administrative Patent Judges*.

HOWARD, *Administrative Patent Judge*.

ORDER  
Trial Hearing  
37 C.F.R. § 42.70

Petitioner and Patent Owner each requested a hearing in the above proceeding pursuant to 37 C.F.R. § 42.70(a). *See* Papers 29, 30. The requests are *granted*.

Each party will have forty-five (45) minutes of total time to present arguments. Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable and Patent Owner does not have the burden of persuasion with respect to the patentability of substitute claims presented in the Motion to Amend. Therefore, Petitioner will proceed first to present its case as to the challenged and substitute claims and may reserve rebuttal time. Patent Owner then will respond to Petitioner's presentation and may reserve rebuttal time. Petitioner then may use the rest of its time to respond to Patent Owner's presentation. Finally, Patent Owner may use any remaining time only to address issues raised by Petitioner regarding Patent Owner's Motion to Amend.

The hearing will commence at 10:00 A.M. Eastern Time on April 11, 2018. The hearing will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first come, first served basis. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days prior to the hearing. The parties shall confer with each other regarding any objections to demonstrative exhibits and file demonstrative exhibits with the Board at least five business days prior to the hearing. For any issue that cannot be resolved after conferring with the opposing party, the parties may file jointly a one-page list of objections at

least two business days prior to the hearing. 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 hearing or after the hearing. 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 *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118), 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 hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that one member of the panel will be attending the hearing electronically from a remote location and that if a demonstrative exhibit is not filed or otherwise made fully available or visible to the judge presiding over the hearing remotely, that demonstrative exhibit will not be considered. The judge presiding remotely will not be able to view the screen in the hearing room.

The Board expects lead counsel for Petitioner and Patent Owner to be present at the hearing, although 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 hearing, the Board should be notified via a joint conference call no later than two days prior to the hearing 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 hearing date. 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 hearing. Further, if the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at 571-272-9797.

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