

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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KAWASAKI RAIL CAR, INC.,  
Petitioner,

v.

SCOTT BLAIR,  
Patent Owner.

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Case IPR2017-01036  
Patent 6,700,602 B1

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Before JAMESON LEE, SCOTT A. DANIELS, and  
KEVIN C. TROCK, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

AMENDED SCHEDULING ORDER  
and  
DECISION ON REQUEST FOR ORAL ARGUMENT  
*37 C.F.R. §§ 42.5, 42.70*

In response to the Board’s Order of May 15, 2018, indicating the Board’s readiness to move the oral hearing date in this proceeding, the parties timely provided a revised schedule in their May 17, 2018 email to the Board allowing for completion of supplemental briefing, any additional cross-examinations, and any Motions for Observation, by July 5, 2018.

Based on the parties’ proposed dates, the oral hearing on June 5, 2018 is canceled, and the Board amends the schedule in this proceeding as set forth below. Due dates 1–5, below, correspond specifically to the supplemental briefing schedule agreed to by the parties, and the new oral hearing date set by the Board is July 9, 2018.

AMENDED DUE DATE APPENDIX

DUE DATE 1 ..... June 8, 2018

Patent owner’s supplemental response to the petition

DUE DATE 2 ..... June 22, 2018

Petitioner’s supplemental reply to patent owner’s supplemental response to the petition

DUE DATE 3 ..... June 29, 2018

Motion for observation regarding cross-examination of reply witness  
Motion to exclude evidence  
Request for oral argument

DUE DATE 4 ..... July 5, 2018

Response to observation  
Petitioner and Patent Owner demonstratives emailed to Board  
Opposition to motion to exclude

DUE DATE 5 .....July 9, 2018

Oral argument

Objections to demonstratives

Reply to opposition to motion to exclude

The Board will not conduct another telephone conference regarding the amended schedule absent the parties' request. If the parties desire a conference call with the Board to discuss the schedule, they may contact the Board with a proposed date and time.

In addition, both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. Papers 35, 36. Bearing in mind the amended schedule, above, we treat the requests as directed to the new hearing date, and accordingly, the requests are *granted*.

Oral arguments will commence at 1:00 pm Eastern Time on July 9, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each party will have 45 minutes total time to present arguments. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in this review are unpatentable. Therefore, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner.

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

In accordance with the amended schedule, we modify the timing set forth in 37 C.F.R. § 42.70(b) with respect to demonstratives for this proceeding. The parties shall serve any demonstrative exhibits upon each other by July 5, 2018, prior to the hearing. The parties also shall provide the demonstrative exhibits to the Board on the same date by emailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov).

The parties must file any objections to the demonstratives with the Board within two business days after service by the opposing party, and may raise any objections at oral hearing. Any objection to demonstrative exhibits that is presented after the date of the oral hearing 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. The Board will consider the objections and permit some limited time to discuss during oral argument if deemed necessary. *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, (PTAB Oct. 23, 2013) (Paper 118), for guidance regarding the appropriate content of demonstrative exhibits. In addition, absent good cause, arguments with respect to motions to exclude will not be permitted at the hearing.

We expect lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party expects that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the panel no later than two business days prior to the oral hearing to discuss the matter.

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Any special requests for audio visual equipment should be directed to [Trials@uspto.gov](mailto: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.

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