

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC. and GARMIN USA, INC.,
Petitioner,

v.

LOGANTREE, LP,
Patent Owner.

Case IPR2018-00564
Case IPR2018-00565¹
Patent 6,059,576 C1

Before PATRICK R. SCANLON, MITCHELL G. WEATHERLY, and
JAMES A. WORTH, *Administrative Patent Judges*.

SCANLON, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ We issue one Order and enter it in each proceeding. When authorized, the parties may use this style caption when filing a single paper in multiple proceedings, provided that such caption includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the caption.”

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The date set for oral argument in these two proceedings is June 4, 2019, if oral argument is requested by either party and granted by the Board. Paper 10.² Both parties have requested oral argument pursuant to 37 C.F.R. § 42.70. Papers 20, 21. The parties' requests are *granted* to the extent set forth below. These cases are not consolidated, but given the overlap in subject matter and consistent with the parties' requests, a single, combined hearing will be held for both cases.

The hearing for these proceedings will commence at **10:00 a.m. Eastern Time, on Tuesday, June 4, 2019**. The hearing will be conducted on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance, which 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 oral argument.

Each party will have a total of **45 minutes** to present arguments. Because Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable, Petitioner will begin by presenting its arguments regarding the challenged claims. Thereafter, Patent Owner will argue its opposition to Petitioner's case. Petitioner may reserve time to rebut Patent Owner's opposition. Finally, Patent Owner may request an opportunity to present a brief sur-rebuttal to Petitioner's rebuttal. The parties are reminded that arguments made during rebuttal and sur-rebuttal periods must be responsive to arguments the opposing party made in its immediately preceding presentation. The parties are also reminded that during the hearing, the

² As the pertinent papers in both proceedings are substantially identical, we refer herein to the papers filed in IPR2018-00564 for convenience.

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parties “may only present arguments relied upon in the papers previously submitted.” Trial Practice Guide August 2018 Update, p. 23.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven (7) business days before the hearing date. The demonstrative exhibits shall be filed with the Board no later than five (5) business days before the hearing date. **Demonstrative exhibits are not evidence, but merely a visual aid for use at the hearing.** Demonstrative exhibits shall not introduce new arguments or evidence. The parties shall meet and confer in good faith to discuss any objections to demonstrative exhibits. If any issues regarding demonstratives remain unresolved after the parties meet and confer, the parties shall jointly file a one-page list of objections to the demonstrative exhibits with the Board at least three (3) business days before the hearing. For each objection, the list must identify with particularity the demonstratives subject to the objection and include a short, one-sentence statement explaining the objection. The panel will consider the objections and schedule a conference call if necessary. Regardless of whether the propriety of any demonstrative exhibit is disputed by either party, demonstrative exhibits will be considered only to the extent (1) they elucidate the parties’ arguments presented during the hearing *and* (2) they include only arguments and/or evidence already of record in the proceedings. For further guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118).

We expect lead counsel for each party to be present at the hearing; however, any backup counsel may make the actual presentation, in whole or

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in part. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012). If lead counsel for either party is unable to attend the hearing, the parties shall request a joint telephone conference call no later than two (2) days prior to the hearing date to discuss the matter.

At least one member of the panel will be attending the hearing via videoconferencing from a remote location and will have access only to the courtesy copy of the demonstratives provided in advance, as referenced above, and will not be able to view the projection screen in the hearing room. We take this opportunity to remind the parties that each 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 to enable any judge that is attending the hearing from a remote location to follow the presentation.

Requests for special accommodations or audio-visual equipment are to be made at least five (5) business days in advance of the hearing date. Such requests must be sent to Trials@uspto.gov. If the requests are not received timely, requested accommodations and/or equipment may not be available on the day of the hearing.

Either party may request a pre-hearing conference call. *See* Trial Practice Guide August 2018 Update, p. 19–20. The prehearing call is not required, and absent a request, no call will be held. Prior to making a request, the parties should confer and send a joint request to the Board with an agreed upon set of limited issues for discussion. To request a conference, an email should be sent to Trials@uspto.gov by May 24, 2019, including several dates and times of availability for both parties.

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