

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

QUALCOMM INCORPORATED,
Patent Owner.

IPR2018-01281
IPR2018-01282¹
Patent 8,768,865 B2

Before DANIEL N. FISHMAN, MICHELLE N. WORMMEESTER, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*

ORDER
Oral Hearing
35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70

Both parties have requested oral argument in these matter pursuant to 37
C.F.R. § 42.70. IPR2018-01281, Papers 26, 27; IPR2018-01282, Papers 26, 27.

¹ This Order applies to each referenced case. The parties may not use this heading style unless authorized.

IPR2018-01281
IPR2018-01282
Patent 8,768,865 B2

Both parties request one hour (60 minutes) per party per case. We grant the parties' requests to the extent that each party will be allocated ninety (90) minutes per side total for argument for both above-identified cases.

The hearing for this proceeding will commence at **1 PM Eastern Time** on **October 30, 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. If the parties have concerns about disclosing confidential information, they are requested to contact the Board at least ten (10) business days in advance of the hearing to discuss the matter.

Petitioner will proceed first to present its argument with regard to the challenged claims in both above-identified cases. Petitioner may reserve some, but not more than one half, of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's argument and may reserve some of its argument time, for sur-rebuttal. Next, Petitioner may use any time it has reserved for rebuttal to respond to Patent Owner's specific arguments presented at the hearing. Then, Patent Owner may present a brief sur-rebuttal if it has reserved time. No live testimony from any witness will be taken at the oral argument.

Any demonstrative exhibits shall be served at least five (5) business days before the hearing. The parties shall confer regarding any objections to demonstrative exhibits, and file demonstrative exhibits with the Board, as a separate exhibit, at least three (3) business days prior to the hearing. The parties are reminded that the demonstrative exhibits presented in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the panel. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v.*

IPR2018-01281
IPR2018-01282
Patent 8,768,865 B2

Board of Regents of the University of Michigan, Case IPR2013-00041, slip op. 2–5 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. For any issue regarding the proposed demonstrative exhibits that cannot be resolved after conferring with the opposing party, the parties may file jointly a one-page list of objections at least two (2) 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 concise sentence) of the reason for each objection. No argument or further explanation is permitted. We will consider the objections and may schedule a conference call, if necessary, to discuss them. Typically, however, we reserve ruling on the objections until the hearing or until a ruling is necessary to resolve the dispute. 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 reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number and by content) referenced during the consolidated hearing to ensure the clarity and accuracy of the reporter’s transcript. The parties also should note that one or more judges on the panel will be attending electronically and will only have access to the filed copy of the demonstratives provided in advance, as referenced above. If a demonstrative is not made available to the Board in the manner indicated above, that demonstrative may not be available to each of the judges during the hearing and may not be considered. Further, images projected using audio-visual equipment in the hearing room will not be visible to judges participating remotely. Because of limitations on the audio transmission systems in our hearing rooms, the

IPR2018-01281
IPR2018-01282
Patent 8,768,865 B2

presenter may speak only when standing at the hearing room podium. 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.

The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing. The reporter's transcript will be entered in the record of the proceeding.

The Board expects 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 as long as that counsel is present in person. 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 Board no later than two (2) business days prior to the oral hearing to discuss the matter.

A party may request remote video attendance for one or more of its other attendees to view the hearing from any USPTO location. The available locations include the Rocky Mountain Regional Office in Denver, Colorado; the Texas Regional Office in Dallas, Texas; the Elijah J. McCoy Midwest Regional Office in Detroit, Michigan; and the Silicon Valley Office in San Jose, California. To request remote video viewing, a party must send an email message to Trials@uspto.gov ten (10) business days prior to the hearing, indicating the requested location and the number planning to view the hearing from the remote location. The Board will notify the parties if the request for video viewing is granted. Note that it may not be possible to grant the request due to the availability of resources.

IPR2018-01281
IPR2018-01282
Patent 8,768,865 B2

Any special requests for audio-visual equipment should be directed to Trials@uspto.gov. A party may also indicate any special requests related to appearing at an in-person oral hearing, such as a request to accommodate physical needs that limit mobility or visual or hearing impairments, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication not less than five (5) days before the hearing.

PETITIONER:

Walter Renner
Timothy Riffe
Thomas Rozylowicz
Noah C. Graubart
Fish & Richardson P.C.
PTABInbound@fr.com
Axf-ptab@fr.com
riffe@fr.com
tar@fr.com
graubert@fr.com

PATENT OWNER:

Eagle Robinson
R. Ross Viguet
Daniel Leventhal
Norton Rose Fulbright US LLP Eagle
robinson@nortonrosefulbright.com
Ross.viguet@nortonrosefulbright.com
daniel.leventhal@nortonrosefulbright.com