

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

COREPHOTONICS LTD.,
Patent Owner.

Case IPR2019-00030, Patent 9,857,568 B2

Before MARC S. HOFF and BRYAN MOORE, Administrative Patent
Judges.

MOORE, *Administrative Patent Judge.*

SCHEDULING ORDER

On April 16, 2019, we instituted *inter partes* review in this case and contemporaneously issued a Scheduling Order setting the date for oral arguments in these proceedings to November 12, 2019. Papers 9, 10. Patent Owner and Petitioner filed requests for oral argument pursuant to 37 C.F.R. § 42.70(a). Papers 25, 26.

Petitioner requests 45 minutes per side to present arguments. Paper 25. Patent Owner requests 60 minutes per side. Paper 26.

Petitioner's and Patent Owner's requests for oral hearing are granted. **Oral argument will commence at 10:00 AM Eastern Time, on November 12, 2019, and will be conducted at the USPTO Headquarters, Ninth Floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, 22314. Each side will receive 60 minutes of presentation time, including any rebuttal time.**

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 hearing.

Petitioner will open the hearing by presenting its case regarding the challenged claims. Patent Owner then will respond to Petitioner's presentation. Petitioner may reserve rebuttal time (of no more than half their total presentation time) to reply to Patent Owner's arguments. Patent Owner may reserve sur-rebuttal time (of no more than half its total presentation time) to respond to Petitioner's rebuttal. *See Trial Practice Guide Update*, 20 (Aug. 2018), available at <https://go.usa.gov/xU7GP>.

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 for

the benefit of the judge(s) presiding over the hearing remotely. A hard copy of the demonstratives, if used, should be provided to the court reporter at the hearing. Also, Petitioner and Patent Owner are reminded that, at the oral argument, they “may rely upon evidence that has been previously submitted in the proceeding and may only present argument relied upon in the papers previously submitted.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). “No new evidence or arguments may be presented at the oral argument.” *Id.* Petitioner and Patent Owner are directed to refrain from disclosing any confidential information during the hearing or including any confidential information in a demonstrative exhibit.

No pre-hearing conference call was requested.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits should have been served on the opposing party or parties if they have not they should be served upon receiving this order. Demonstrative exhibits used at the hearing are aids to oral argument and not evidence, and should be clearly marked as such. For example, each slide of a demonstrative exhibit may be marked with the words “DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. *Trial Practice Guide Update*, 21.

The Board expects that Petitioner and Patent Owner will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved, Petitioner and Patent Owner are directed to request a conference call with the day prior to the hearing to resolve any dispute over the propriety of demonstrative exhibits. Petitioner and Patent Owner are responsible for requesting such a conference. Any objection to demonstrative exhibits that is not presented timely will be considered waived. The Board asks Petitioner and Patent Owner to confine demonstrative exhibit objections to those identifying egregious violations

that are prejudicial to the administration of justice. Petitioner and Patent Owner may refer to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033 (PTAB October 23, 2013) (Paper 118), and *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65) regarding the appropriate content of demonstrative exhibits. Petitioner and Patent Owner are directed to *file* their demonstrative exhibits, marked as noted above, before the hearing.

The Board expects lead counsel for each side to be present in person at the oral hearing. Any counsel of record, however, may present argument as long as that counsel is present in person. If either side expects that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board the day prior to the oral hearing to discuss the matter.

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 before the hearing.

It is

ORDERED that, subject to the procedures and requirements set forth above, the requests for oral argument are *granted*; and

FURTHER ORDERED that oral argument, conducted in accordance with the procedures above, shall commence at 10:00 AM Eastern Time, on November 12, 2019.

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