

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

UNILOC 2017 LLC,
Patent Owner.

IPR2019-00251 (Patent 6,933,049 B2)
IPR2019-00510 (Patent 6,868,079 B1)¹

Before SALLY C. MEDLEY, JEFFREY S. SMITH, and GARTH D. BAER,
Administrative Patent Judges.

BAER, *Administrative Patent Judge.*

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ This Order addresses the same issues in the *inter partes* reviews listed above. Therefore, we issue one Order to be filed in both cases. The parties, however, are not authorized to use this style of filing in subsequent papers.

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We instituted trial in the above captioned proceedings. Paper 7.² A Scheduling Order set the oral hearing for April 23, 2020, if requested by the parties and granted by the Board. Paper 8. Both parties have requested oral hearing in both proceedings. Papers 17, 18. The requests are granted according to the terms set forth below.

Oral arguments will commence at 1:00 PM Eastern Time, on April 23, 2020, by video. Arguments for IPR2019-00251 will be heard first, followed by arguments for IPR2019-00510. The parties are directed to contact the Board at least 10 days in advance of the hearing if there are any concerns about disclosing confidential information. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

To facilitate planning, each party must contact PTAB Hearings at (571) 272-9797 five business days prior to the oral hearing date to receive video set-up information. As a reminder, all arrangements and the expenses involved with appearing by video, such as the selection of the facility to be used from which a party will attend by video, must be borne by that party. If a video connection cannot be established, the parties will be provided with dial-in connection information, and the oral hearing will be conducted telephonically.

If one or both parties would prefer to participate in the oral hearing telephonically, they should notify PTAB Hearings at the above telephone number five business days prior to the hearing to receive dial-in connection information.

² For convenience, we cite to papers in IPR2019-00251. Similar papers were filed in IPR2019-00510.

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Each party will have forty-five minutes total time to present its arguments per proceeding. Petitioner bears the ultimate burden of persuasion that the claims at issue are unpatentable. 35 U.S.C. § 316(e). Petitioner will therefore open the hearing by presenting its arguments regarding patentability. Patent Owner may then respond to Petitioner's arguments. Each party may reserve up to half of its allocated time to respond to arguments presented by the opposing party, with Petitioner replying first, followed by Patent Owner.

Under 37 C.F.R. § 42.70(b), any demonstrative exhibits must be served on opposing counsel at least seven (7) business days before the hearing. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties shall file demonstrative exhibits with the Board at least two business days prior to the hearing.

The Board expects that the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if any such objections cannot be resolved, the parties must file any objections to the demonstratives with the Board at least two business days before the hearing. The objections should identify with particularity which portions of the demonstratives are subject to objection, include a copy of the objected-to portions, and include a short, one-sentence statement 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

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the hearing. Any objection that is not timely presented will be considered waived.

We note that demonstrative exhibits are only an aid to oral argument and are not evidence of record in the proceeding, and should be clearly marked as such. For example, each slide may be marked with the words “DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. The parties also are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) or page of the record referenced during the hearing to ensure the clarity and accuracy of the reporter’s transcript.

The Board generally expects lead counsel for each party to be present by video at the oral hearing. Any counsel of record may present the party’s argument as long as that counsel is present by video.

Any special requests for audio-visual equipment should be directed to PTABHearings@uspto.gov. A party may also indicate any special requests related to appearing at a video oral hearing, such as a request to accommodate 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.

The panel will have access to all papers filed with the Board, including demonstratives. During the oral hearing, the parties are advised to identify clearly and specifically each demonstrative referenced (e.g., by slide or screen number) to ensure the clarity and accuracy of the court reporter’s transcript. In addition, the parties are advised to identify themselves each time they speak. Furthermore, the remote nature of the oral hearing may

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also result in an audio lag, and so the parties are advised to observe a pause prior to speaking, so as to avoid speaking over others

It is:

ORDERED that oral argument will commence at 1:00 PM ET, on April 23, 2020.

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