

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WEATHERFORD INTERNATIONAL, LLC,
Petitioner,

v.

BAKER HUGHES OILFIELD OPERATIONS, LLC,
Patent Owner.

IPR2019-00708 and IPR2019-00768¹
Patent RE46,137 E

Before MITCHELL G. WEATHERLY, JON B. TORNQUIST, and
RYAN H. FLAX, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

ORDER
Oral Hearing
37 C.F.R. § 42.70

¹ This Order sets the schedule for the above-identified, related proceedings, which were each instituted on the same day. We exercise our discretion to issue one order covering each proceeding. The parties, however, are not authorized to use this style heading in any subsequent papers.

I. HEARING AND ATTENDANCE

Inter partes reviews IPR2019-00708 (“’708 IPR”) and IPR2019-00768 (“’768 IPR”) were instituted on September 5, 2019. Paper 8.² A Scheduling Order was issued the same day, which set the date for oral hearing in the proceeding as June 9, 2020, if a hearing were requested by the parties and granted by the Board. Paper 9. Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. ’708 IPR, Papers 27, 28; ’768 IPR, 32, 33. Petitioner’s and Patent Owner’s requests for oral hearing are *granted*.

The hearing will commence at 10:00 a.m., on June 9, 2020, and be conducted via video conference. 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.

As both parties have requested, each party will have sixty (60) minutes to present arguments to address both cases. Each party may allocate

² Unless otherwise noted, citations to Paper numbers apply to both proceedings.

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their time for primary and rebuttal arguments with a maximum of fifteen (15) minutes reserved for rebuttal. Petitioner will present its primary argument first regarding the patentability of all claims at issue in each proceeding. Patent Owner will respond with its primary argument in response to Petitioner's primary argument. Petitioner will present its rebuttal argument, limited to responding to Patent Owner's responsive primary argument. Patent Owner will present its rebuttal, limited to responding to Petitioner's rebuttal argument.

The hearing will be accessible to the public and 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. 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, evidence, or paper

referenced (e.g., by slide or screen number, exhibit number, or paper 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 and mute themselves when not speaking. Furthermore, the remote nature of the oral hearing may 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.

II. DEMONSTRATIVE EXHIBITS

Under 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served on opposing counsel at least seven (7) business days before the oral hearing, and filed as an exhibit no later than the time of the oral hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least three (3) business days prior to the oral hearing by emailing the exhibits to PTABHearings@uspto.gov. Demonstrative exhibits in this proceeding are not evidence and are intended only to assist the parties in presenting their oral argument to the panel, and should be clearly marked as such. For example, each slide may be marked with the words "DEMONSTRATIVE EXHIBIT – NOT EVIDENCE" in the footer. *See Dell Inc. v. Accelaron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) (noting that the "Board was obligated to dismiss [the petitioner's] untimely argument . . . raised for the first time during oral argument"). The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2015) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits, which must include citations to the record.

If either party objects to demonstrative exhibits, the parties shall meet and confer in good faith to resolve any such objections. A party may file a paper addressing any unresolved objections to demonstrative exhibits with the Board no later than three (3) business days before the oral hearing. The paper shall include a single sentence per objection stating the basis for that objection and be accompanied by a copy of the allegedly objectionable demonstrative exhibit that identifies the objectionable portion of the exhibit with particularity. No further argument or explanation is permitted. We will consider the objections and, if we deem it necessary, we will further address the objections in a conference call or at the oral hearing. Otherwise, we will reserve ruling on the objections until after the oral hearing.

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