

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

OMNI MEDSCI INC.,
Patent Owner.

IPR2019-00916
Patent 9,651,533 B2

Before GRACE KARAFFA OBERMANN, JOHN F. HORVATH, and
SHARON FENICK, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

ORDER
Granting Requests for Oral Argument
37 C.F.R. § 42.70

On June 5, 2020, Petitioner and Patent Owner filed requests for oral argument in this proceeding. *See* Papers 30, 31. Petitioner requested 45 minutes of argument per side with no time for sur-rebuttal allocated to Patent Owner, and Patent Owner requested “no more than one hour per side.” Paper 30, 1; Paper 31, 1.

The parties’ requests for oral argument are *granted*, and oral argument will be held by video conference on July 16, 2020, commencing at 1:00 p.m. Eastern Time. The Board expects lead counsel for each party to be present. However, lead or backup counsel may put forward a party’s arguments. If either party anticipates that its lead counsel will not be present, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

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 PTABHearings@uspto.gov 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 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. No party may attend the hearing at any USPTO location.

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

Each party will have forty five (45) minutes of *total* argument time for the hearing. Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable. Therefore, Petitioner will proceed first, and will present its arguments with regard to the challenged claims and grounds on which we instituted trial. Petitioner may reserve some of its time for rebuttal. Patent Owner may respond to Petitioner's arguments, and may also reserve some of its time for rebuttal. Petitioner may then use its rebuttal time to respond to Patent Owner's arguments, and Patent Owner may use its rebuttal time to respond to Petitioner's arguments.

Under 37 C.F.R. § 42.70(b), any demonstrative exhibits to be presented at the hearing must be served seven business days before the hearing. They shall be filed with the Board no later than **three business days** before the hearing. Any objection to demonstrative exhibits should be resolved at least two business days prior to the hearing by way of a joint telephone conference call to the Board. Any objection to demonstrative exhibits that is not timely presented will be considered waived. For guidance on appropriate content in demonstrative exhibits, the parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (Oct. 23, 2013).

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

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

If the parties have any questions not specifically addressed above, they may contact the Board at PTABHearings@uspto.gov.

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