

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ROKU, INC.,
Petitioner,

v.

UNIVERSAL ELECTRONICS, INC.,
Patent Owner.

IPR2019-01612 (Patent 7,589,642 B1)
IPR2019-01613 (Patent 8,004,389 B1)
IPR2019-01614 (Patent 9,911,325 B2)¹

Before PATRICK M. BOUCHER, MINN CHUNG, and
SHARON FENICK, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

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

The date set for oral hearing in these proceedings is December 22,
2020, if hearings are requested by either party and granted by the Board.

¹ The parties are not authorized to use this form of caption.

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Paper 8.² Both parties request oral hearing. Papers 21, 22. The requests are *granted*.

A consolidated oral argument will be held. Each party will have a total of 90 minutes to present its argument, and may allocate its time among the three proceedings as it wishes. Any representation made by counsel at the consolidated oral argument is applicable to and useable in all proceedings that have the same or similar underlying basis for the representation.

Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in these reviews are unpatentable. Accordingly, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument. Petitioner may reserve time to respond to Patent Owner's argument. Patent Owner may request a brief sur-rebuttal as set forth in the Board's Consolidated Trial Practice Guide.

Oral arguments will commence at 1:00 PM Eastern Standard Time on Tuesday, December 22, 2020, by video. 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. If at any time during the proceeding, a party encounters technical or other difficulties that fundamentally undermine the ability to adequately represent the party, the panel should be notified

² Citations are to IPR2019-01612. Similar papers have been filed in each of the proceedings.

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immediately, and adjustments will be made.³

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 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 email address five business days prior to the hearing to receive dial-in connection information.

The parties may request a pre-hearing conference in advance of the hearing. *See* Consolidated Trial Practice Guide 82. “The purpose of the pre-hearing conference is to afford the parties the opportunity to preview (but not argue) the issues to be discussed at the hearing, and to seek the Board’s guidance as to particular issues that the panel would like addressed by the parties.” *Id.* If either party desires a pre-hearing conference, the parties should jointly contact the Board at Trials@uspto.gov at least seven (7) business days before the hearing date to request a conference call for that purpose.

The parties shall serve on opposing counsel any demonstrative exhibits at least seven business days prior to the hearing. The parties also

³ For example, if a party is experiencing poor video quality, the Board may provide alternative dial-in information.

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shall file the demonstrative exhibits with the Board at least five business days prior to the hearing. The parties are also requested to email their demonstrative exhibits to PTABHearings@uspto.gov. We remind the parties that demonstrative exhibits are not evidence, but are intended to assist the parties in presenting their oral arguments to the Board. We also remind the parties that demonstrative exhibits are not a mechanism for making arguments not previously addressed in the papers. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits, which must include citations to the record.

To the extent that the parties object to any demonstrative exhibits, the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits. If such objections cannot be resolved, the parties shall file jointly a one-page list of objections to demonstratives with the Board at least two business days before the hearing. The objections should identify with particularity the portions of each demonstrative exhibit subject to objection, include a copy of the objected-to portions, and include a one-sentence statement of the reason for each objection. No further argument or explanation is permitted. We will consider any objections and schedule a conference call if deemed necessary. Otherwise, we will reserve ruling on the objections. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

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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 days before the hearing.

The panel will have access to all papers filed with the Board, including demonstrative exhibits. During the oral hearing, anyone who is not speaking is asked to mute himself or herself. The parties are requested 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 requested to identify themselves each time they speak. Furthermore, the remote nature of the oral hearing may also result in an audio lag, and so the parties are requested to observe a pause prior to speaking, so as to avoid speaking over others.

Members of the public may request to listen in on this oral hearing. If resources are available, the Board generally expects to grant such requests. If either party objects to the Board granting such requests, for example, because confidential information may be discussed, the party must notify the Board by contacting PTABHearings@uspto.gov at least five business days prior to the oral hearing date.

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