

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LKQ CORPORATION and  
KEYSTONE AUTOMOTIVE INDUSTRIES, INC.,  
Petitioner,

v.

GM GLOBAL TECHNOLOGY OPERATIONS LLC,  
Patent Owner.

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IPR2020-00534  
Patent D797,625 S

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Before GRACE KARAFFA OBERMANN, SCOTT A. DANIELS, and  
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

ORDER GRANTING REQUESTS FOR ORAL ARGUMENT  
37 C.F.R. § 42.7

I. ORAL ARGUMENT

A. *Time and Format*

Petitioner and Patent Owner have each requested that an oral hearing be scheduled. Petitioner requested 90 minutes and Patent Owner requested 30 minutes for oral argument time. Papers 24, 25. The parties' requests are *granted* to the extent that both parties are allotted 60 minutes each to present arguments.

**Oral arguments will commence at 1:00 PM Eastern Time on April 27, 2021, by videoconference.** The parties are directed to contact the Board at least 5 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 parties shall not make, or permit others to make, audio or visual recordings of the proceeding.

If at any time during the proceeding, you encounter technical or other difficulties that fundamentally undermine your ability to adequately represent your client, please let the Panel know immediately, and adjustments will be made.<sup>1</sup>

To facilitate planning, each party must contact PTAB Hearings at [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov) five business days prior to the oral hearing date to receive videoconference set-up information. As a reminder, all arrangements and expenses related to a party's appearance by video, such as the selection of the facility to be used from which a party will attend by video, are the responsibility of that party. If a video connection cannot be

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<sup>1</sup> For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

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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.

Please unmute yourself only when speaking. 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 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.

Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, at oral hearing, Petitioner will proceed first to present its arguments with regard to the challenged claims and grounds on which we instituted trial in the above-captioned proceeding. Petitioner may reserve some (but not more than half) of its allotted argument time for rebuttal to respond to Patent Owner's arguments.

After Petitioner's initial presentation, Patent Owner will argue its opposition to Petitioner's case and present the issues for which it bears the ultimate burden, including argument on any of Patent Owner's pending motions. Thereafter, Petitioner may use any reserved time to respond to Patent Owner's presentation. Patent Owner may reserve some (but no more than half) of its allotted argument time for sur-rebuttal to respond to

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Petitioner's arguments.<sup>2</sup> The parties are reminded that arguments made during rebuttal and sur-rebuttal periods must be responsive to arguments the opposing party made in its immediately preceding presentation. The parties are also reminded that during the hearing, the parties "may only present arguments relied upon in the papers previously submitted." CTPG, p. 86.

*B. Demonstratives*

Pursuant to 37 C.F.R. § 42.70(b), the parties shall serve any demonstrative exhibits upon each other at least seven business days prior to the hearing. The parties also shall provide the demonstrative exhibits to the Board at least seven business days prior to the hearing by emailing them to [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov). **The parties shall not file any demonstrative exhibits in this case without our prior authorization.** 37 C.F.R.

§§ 42.5(b), 42.70(b). The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, slip op. 2–5 (PTAB Jan. 27, 2014) (Paper 65), and *CBS Interactive Inc., v. Helferich Patent Licensing, LLC*, IPR2013-00033, slip op. at 2–4 (PTAB Oct. 23, 2013) (Paper 118), for guidance regarding the appropriate content of demonstrative exhibits. Demonstratives may not be used to advance arguments or introduce evidence not previously presented in the record. 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"). Instead, demonstratives should cite to the briefs and evidence in the record.

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<sup>2</sup> See Office Consolidated Trial Practice Guide ("CTPG"), November 2019 Edition, p. 83, available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

*C. Presenting Counsel*

The Board expects lead counsel for each party to be present at the oral hearing. Any counsel of record may present the party's argument as long as lead counsel also is present.

*D. Audio/Visual Equipment Requests*

Any special requests for audio-visual equipment should be directed to [PTABHearings@uspto.gov](mailto: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.

*E. Remote Attendance Requests*

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](mailto:PTABHearings@uspto.gov) at least five business days prior to the oral hearing date.

*F. Legal Experience and Advancement Program*

The Board has established the "Legal Experience and Advancement Program," or "LEAP," to encourage advocates with less legal experience to argue before the Board to develop their skills. Either party may request that a qualifying LEAP practitioner participate in the program and conduct at least a portion of the party's oral argument. The Board will grant up to fifteen (15) minutes of additional argument time to that party, depending on the length of the proceeding and the PTAB's hearing schedule. A party

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