

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

COREPHOTONICS, LTD.,
Patent Owner.

IPR2020-00861 (Patent 10,230,898 B2)
IPR2020-00862 (Patent 10,356,332 B2)¹

Before BRYAN F. MOORE, MONICA S. ULLAGADDI, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

ORDER
Granting Parties' Requests for a Trial Hearing
37 C.F.R. § 42.70(a)

¹ This Order addresses issues that are common to the above proceedings. We exercise our discretion to issue one Order to be filed in each proceeding. The parties are may not use this style caption unless authorized by the Board.

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On July 27, 2021, the parties filed requests for oral argument in the above-captioned proceedings. Papers 27, 28. Patent Owner requested 60 minutes of argument time for each proceeding and Petitioner requested 75 minutes of total argument time for both proceedings. *Id.*

The parties' requests for oral argument are *granted in part*. After considering the specific issues to be argued that were identified by the parties in their requests for oral argument, we determine that 45 minutes of oral argument time for each party in each case for a total of 90 minutes per party for both cases should be sufficient. Oral arguments will commence at **9:00 AM Eastern Daylight Time on Thursday, September 9, 2021**, 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 during the hearing, which will be open to the public. 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, 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.²

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

² For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

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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.

Petitioner has the burden of persuasion and, as a consequence, Petitioner will open the hearing by presenting its case regarding the challenged claims. Patent Owner then will respond to Petitioner's presentation. Petitioner may reserve rebuttal time (of no more than half its total argument time) to reply to Patent Owner's arguments. Patent Owner may reserve sur-rebuttal time (of no more than half its total argument time) to respond to Petitioner's rebuttal.

The parties shall serve on opposing counsel any demonstrative exhibits at least seven (7) business days prior to the hearing. The parties also shall provide the demonstrative exhibits to the Board at least three (3) business days prior to the hearing by emailing them to PTABHearings@uspto.gov. The parties shall not file any demonstrative exhibits in this proceeding, without prior authorization from the Board.

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

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(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 the propriety of any demonstrative exhibits, we expect 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 (2) 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.

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.

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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.

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.

ORDER

In view of the foregoing, it is, therefore,

ORDERED that the parties' requests for oral hearing are *granted in part* subject to the conditions set forth above in this Order; and

FURTHER ORDERED that a video oral hearing, conducted pursuant to the procedures outlined above, shall commence at **9:00 AM Eastern Daylight Time on Thursday, September 9, 2021.**

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