

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner,

v.

LBT IP I LLC,  
Patent Owner.

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IPR2020-01189 (Patent 8,497,774 B2)  
IPR2020-01191 (Patent 8,102,256 B2)  
IPR2020-01192 (Patent 8,421,618 B2)<sup>1</sup>

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Before JOHN A. HUDALLA, SHEILA F. McSHANE, and  
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

ORDER  
Granting Requests for Oral Argument  
*37 C.F.R. § 42.70(a)*

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<sup>1</sup> We exercise our discretion to issue a single Order, to be filed in each case.  
The parties are not authorized to use this caption for subsequent papers.

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The Scheduling Orders (Paper 10<sup>2</sup>) for these proceedings provided that an oral argument would be conducted on December 9, 2021, if requested by the parties and granted by the Board. Under 37 C.F.R. § 42.70(a), both parties requested consolidated oral argument in these cases. Papers 32, 34. The parties' requests for consolidated oral argument are *granted*.

Oral arguments will commence at 10:00 AM ET on Thursday, December 9, 2021, by video. The parties are directed to contact the Board at least ten business 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 consolidated transcript will constitute the official record of the hearing.

If at any time during the proceedings, an attorney encounters technical or other difficulties that fundamentally undermine the attorney's ability to adequately represent the attorney's client, please inform the panel immediately, and adjustments will be made.<sup>3</sup>

To facilitate planning, each party must contact PTAB Hearings at [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov) at least 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

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<sup>2</sup> For purposes of expediency, we cite to papers filed in IPR2020-01189. Similar papers are filed in each of the above-identified proceedings.

<sup>3</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.

At the consolidated hearing, each party will have 120 minutes of total argument time. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in these proceedings are unpatentable by a preponderance of the evidence. 35 U.S.C. § 316(e). Therefore, 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 and present the issues for which it bears the ultimate burden. Next, Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. Lastly, Patent Owner may reserve sur-rebuttal time; however, Patent Owner's sur-rebuttal must be limited in scope to the issues Petitioner raises during its rebuttal time. The parties may also address any pending motions during their respective presentations. No live testimony from any witness will be taken at the hearing.

The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 at 2–5 (PTAB Jan. 27, 2014) (Order – Conduct of the Proceeding), for guidance regarding the appropriate content of demonstrative exhibits. Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served **at least**

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**seven (7) business days** before the hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board **at least five (5) business days** before the hearing by emailing them to [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov).

The parties shall meet and confer to discuss and resolve any objections to demonstrative exhibits. Any party with unresolved objections must file a list of those objections with the Board at least two business days before the hearing. For each objection, the list must identify with particularity which portions of the demonstrative exhibits are subject to the objection and may include a short, one-sentence statement explaining the objection. No argument or further explanation is permitted. The Board will consider any objections and schedule a conference call if deemed necessary. Otherwise, the Board will reserve ruling on the objections. Any objection to demonstrative exhibits not timely presented may be considered waived. The Board may reserve ruling on the objections until after the hearing.

If desired, a request for a pre-hearing conference must be made by November 23, 2021. To request such a conference, an email message should be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov) including several dates and times of availability for one or both parties, as appropriate, that are generally **no later than three (3) business days** before 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, in whole or in part, as long as that counsel is present by video.

Any special requests for audio-visual equipment must be directed to [PTABHearings@uspto.gov](mailto:PTABHearings@uspto.gov). A party may also indicate any special requests

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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.

Attorneys will unmute themselves only when speaking. The panel will have access to all papers filed with the Board, including demonstratives. During the oral hearing, attorneys must 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, attorneys must identify themselves at the beginning of their presentation or after another attorney speaks. Furthermore, the remote nature of the oral hearing may also result in an audio lag, so attorneys must observe a pause prior to speaking 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](mailto:PTABHearings@uspto.gov) at least five business days prior to the oral hearing date.

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. The Board defines a LEAP practitioner as a patent agent or attorney having three (3) or fewer

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