

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

THALES VISONIX, INC.,
Patent Owner.

IPR2022-01294 (Patent 8,224,024 B2)
IPR2022-01304 and IPR2022-01305 (Patent 6,922,632 B2)
IPR2022-01308 (Patent 7,725,253 B2)¹

Before WILLIAM V. SAINDON, HYUN J. JUNG, and JASON W.
MELVIN, *Administrative Patent Judges*.

PER CURIAM.

ORDER
Setting Oral Argument
37 C.F.R. § 42.70

¹ This Order addresses issues that are the same in each of these proceedings. We issue one Order to be entered in each proceeding. The parties are not permitted to use this style of caption.

IPR2022-01294 (Patent 8,224,024 B2)
IPR2022-01304 and IPR2022-01305 (Patent 6,922,632 B2)
IPR2022-01308 (Patent 7,725,253 B2)

I. ORAL ARGUMENT

We instituted trial in each of the above-identified proceedings. IPR2022-01304, Paper 11 (dated March 22, 2023); IPR2022-01305, Paper 12 (dated March 13, 2023); IPR2022-01308, Paper 10 (dated March 22, 2023); and IPR2022-01294, Paper 10 (dated March 13, 2023). Petitioner (Meta Platforms, Inc.) and Patent Owner (Thales Visionix, Inc.) have jointly requested oral argument pursuant to 37 C.F.R. § 42.70(a). IPR2022-01304, Paper 37; IPR2022-01305, Paper 37; IPR2022-01308, Paper 36; and IPR2022-01294, Paper 34. The parties also indicate they have agreed to consolidate oral arguments for IPR2022-01304, IPR2022-01305, and IPR2022-01308. *See* IPR2022-01304, Paper 37; IPR2022-01305, Paper 37; and IPR2022-01308, Paper 36.

Upon consideration, the requests for oral argument are *granted*.

A. *Time and Format*²

Oral arguments for IPR2022-01304, IPR2022-01305, and IPR2022-01308 will be combined, and the combined oral arguments will commence at **9:00 AM Eastern Time on December 7, 2023**, in PTAB Hearing Room B at **the USPTO headquarters in Alexandria** (9th floor of

² If a party is no longer able to appear in-person for the hearing, the party must contact PTABHearings@uspto.gov as soon as possible.

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Madison Building East, 600 Dulany Street, Alexandria, Virginia 22314).^{3,4}

Oral arguments for IPR2022-01294 will commence at **12:00 PM Eastern Time** on **December 7, 2023**, in PTAB Hearing Room B at **the USPTO headquarters in Alexandria**.⁵ The Board will provide a court reporter for the hearings, and the reporter's transcript will constitute the official record of the hearings. The hearings will be governed by the guidelines below.

Petitioner will have **a total of sixty (60) minutes** of total argument time to present its arguments in IPR2022-01304, IPR2022-01305, and IPR2022-01308, and Patent Owner will have **a total of sixty (60) minutes** of total argument time to respond in IPR2022-01304, IPR2022-01305, and IPR2022-01308.⁶

In IPR2022-01294, Petitioner will have **a total of forty-five (45) minutes** to present argument, and Patent Owner will have **a total of forty-five (45) minutes** to respond.

³ The U.S. Patent and Trademark Office ("USPTO") is concerned with the health and safety of all of its stakeholders, and will continue to follow all applicable health guidance. Prior to arriving at any USPTO office location, please consult the following to verify entry requirements:

<https://www.uspto.gov/coronavirus>.

⁴ If there are any concerns about disclosing confidential information, the parties must contact the Board at Trials@uspto.gov at least ten (10) business days before the hearing date.

⁵ If there are any concerns about disclosing confidential information, the parties must contact the Board at Trials@uspto.gov at least ten (10) business days before the hearing date.

⁶ The combined hearing for IPR2022-01304, IPR2022-01305, and IPR2022-01308 will thus extend from 9:00 AM to 11:15 AM Eastern Time, including a short break.

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In each of (a) the consolidated oral argument for IPR2022-01304, IPR2022-01305, and IPR2022-01308, and (b) oral argument for IPR2022-01294, the procedure is the same, as follows. Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial, and may discuss the motions to exclude. Thereafter, Patent Owner will respond to Petitioner's argument and may discuss the motions to exclude. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. In accordance with the Consolidated Trial Practice Guide⁷ ("CTPG"), issued in November 2019, Patent Owner may request to reserve time for a brief sur-rebuttal. *See* CTPG 83.

The parties may request a pre-hearing conference in advance of the hearing. *See* CTPG 82; *see also* 84 Fed. Reg. 64,280 (Nov. 21, 2019). "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 oral hearing, and to seek the Board's guidance as to particular issues that the panel would like addressed by the parties." CTPG 82. Requests must be made by November 28, 2023 for IPR2022-01304, IPR2022-01305, and IPR2022-01308, and by November 24, 2023 for IPR2022-01294. *See* IPR2022-01304, Paper 12 (Scheduling Order),⁸ 12 (DUE DATE 6); IPR2022-01294, Paper 11 (Scheduling Order), 11 (DUE DATE 6). 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.

⁷ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

⁸ The same Scheduling Order was entered in IPR2022-01305 and IPR2022-01308.

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B. Demonstratives

As set forth in 37 C.F.R. § 42.70(b), demonstratives shall be served on opposing counsel at least seven (7) business days before the hearing date. Notwithstanding the regulations, demonstratives shall be filed with the Board no later than December 5, 2023.⁹

Demonstratives are not a mechanism for making new arguments. Demonstratives also are not evidence, and will not be relied upon as evidence. Rather, demonstratives are visual aids to a party's oral presentation regarding arguments and evidence previously presented and discussed in the papers. Accordingly, demonstratives shall be clearly marked with the words "DEMONSTRATIVE EXHIBIT – NOT EVIDENCE" in the footer. *See Dell Inc. v. Accelaron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) (holding that the Board is obligated under its own regulations to dismiss untimely argument "raised for the first time during oral argument"). "[N]o new evidence may be presented at the oral argument." CTPG 85; *see also St. Jude Med., Cardiology Div., Inc. v. The Bd. of Regents of the Univ. of Mich.*, IPR2013-00041, Paper 65, 2–3 (PTAB Jan. 27, 2014) (explaining that "new" evidence includes evidence already of record but not previously discussed in any paper of record).

Furthermore, because of the strict prohibition against the presentation of new evidence or arguments at a hearing, it is strongly recommended that each demonstrative include a citation to a paper in the record, which allows the Board to easily ascertain whether a given demonstrative contains "new"

⁹ The parties may stipulate to an alternative schedule for serving demonstratives, but may not change the schedule for filing.

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