

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NAUTILUS HYOSUNG INC.,
Petitioner,

v.

DIEBOLD NIXDORF, INC.,¹
Patent Owner.

Case IPR2016-00529 (Patent 7,229,010)
Case IPR2016-00530 (Patent 7,229,010)
Case CBM2016-00034 (Patent 7,314,163)²

Before BARBARA A. BENOIT, GEORGIANNA W. BRADEN, and
KERRY BEGLEY, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ After institution of *inter partes* review in these proceedings, Patent Owner changed its name. See Paper 14. We use Patent Owner's updated name in this Order.

² The Order concerns a matter applicable to all proceedings. We exercise our discretion to file a single Order in all proceedings. The parties, however, are not authorized to use this caption.

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Decisions to Institute trials have been entered in IPR2016-00529, IPR2016-00530, and CBM2016-00034. Paper 7.³ Scheduling Orders in each case set the date for oral hearing, if requested by either party, as May 4, 2017. Paper 8. Pursuant to 37 C.F.R. § 42.70, both parties have requested oral hearing. Papers 19, 20. Petitioner's and Patent Owner's requests for oral hearing are *granted*.

Oral argument for these proceedings will be held on May 4, 2017 on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearings will commence at 11:00 AM Eastern Time and will be open to the public for in-person attendance. In-person attendance will be accommodated on a first-come-first-served basis. If the parties have any concern about disclosing confidential information, they are to contact the Board at least five (5) business days in advance of the hearings to discuss the matter.

Two separate hearings will be held according to the following schedule:

11:00 AM ET	CBM2016-00034. Each party will have forty-five (45) minutes of total time.
12:30 PM ET (approx.)	Break
1:00 PM ET (approx.)	IPR2016-00529 and IPR2016-00530 (consolidated). Each party will have sixty (60) minutes of total time.

³ All citations are to IPR2016-00529. In CBM2016-00034, an Order updating the Scheduling Order was issued on March 8, 2017 (Paper 22), which changed the hearing date to May 4, 2017.

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Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, in each hearing, Petitioner will proceed first to present its case with regard to the challenged claims and grounds on which we instituted trial. Patent Owner then will argue its oppositions to Petitioner's case. Petitioner may reserve rebuttal time.

The Board will provide a court reporter for the hearings and the reporter's transcript will constitute the official record of the hearings.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

Furthermore, pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five (5) business days before the hearings. The parties shall provide a courtesy copy of any demonstrative exhibits to the Board at least three (3) business days prior to the hearings by emailing them to Trials@uspto.gov. The parties shall *not* file any demonstrative exhibits in the records of these proceedings without prior authorization from the Board. The demonstrative exhibits in these proceedings are not evidence and are intended only to assist the parties in presenting their oral argument to the Board. The parties must, however, file any objections to the demonstratives with the Board at least three (3) business days before the hearings. Any objection to the demonstrative exhibits that is not presented timely will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further

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explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present at oral hearings, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party will not be in attendance at either oral hearing, the Board should be notified via a joint telephone conference call no later than five (5) business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication not less than three (3) business days before the hearings directed to the above email address.

At least one judge will be participating remotely via a videoconferencing device and will not be able to view the projection screen in the hearing room. The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearings to avoid confusion, and to ensure the clarity and accuracy of the reporter's transcript.

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