

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNDER ARMOUR, INC.,
Petitioner,

v.

ADIDAS AG,
Patent Owner.

Case IPR2015-00697 (Patent 7,905,815 B2)
Case IPR2015-00698 (Patent 8,092,345 B2)
Case IPR2015-00700 (Patent 8,579,767 B2)

Before JENNIFER S. BISK, MICHEAL J. FITZPATRICK, and
JUSTIN BUSCH, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

ORDER
Request for Oral Argument
37 C.F.R. § 42.70

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Case IPR2015-00700 (Patent 8,579,767 B2)

Petitioner, Under Armour, Inc., and Patent Owner, adidas AG, each requested oral hearing pursuant to 37 C.F.R. § 42.70 in all three cases. *E.g.*, IPR2015-00697 Papers 31, 34. Upon consideration, the requests for oral hearing are granted. Oral argument shall commence at **10:00 AM Eastern Time on May 13, 2016**, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come, first-served basis. One or more judges of the panel may attend remotely. Petitioner also requested that the hearing for these matters be consolidated. *E.g.*, IPR2015-00697 Paper 31, 1. We grant that request as well.

Each party will have ninety (90) minutes of total time, a portion of which it may initially reserve, to present arguments in the following order:

First, Petitioner may argue its grounds of unpatentability upon which trial was instituted and its Motions to Exclude;

Second, Patent Owner may argue in opposition thereto and argue its own Motions to Exclude;

Third, Petitioner may present rebuttal arguments with respect to its grounds of unpatentability and its own Motions to Exclude and arguments in opposition to Patent Owner's Motions to Exclude; and

Fourth, Patent Owner may present rebuttal arguments with respect to its Motions to Exclude.

The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing.

Case IPR2015-00697 (Patent 7,905,815 B2)

Case IPR2015-00698 (Patent 8,092,345 B2)

Case IPR2015-00700 (Patent 8,579,767 B2)

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served on opposing counsel at least five business days prior to the hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the hearing by emailing them to Trials@uspto.gov no later than the day before the hearing. The parties shall not file any demonstrative exhibits in these proceedings without prior authorization from the Board. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The Board expects that the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved, the parties may file any objections to demonstratives with the Board at least two business days before the hearing. The objections should identify with particularity which portions of the demonstrative exhibits are subject to objection, include a copy of the objected-to portions, and include a one-sentence statement of the reason for each 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 that is not timely presented will be considered waived.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone

Case IPR2015-00697 (Patent 7,905,815 B2)

Case IPR2015-00698 (Patent 8,092,345 B2)

Case IPR2015-00700 (Patent 8,579,767 B2)

conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

Questions regarding specific audio-visual equipment should be directed to the Board at (571) 272-9797. Requests for audio-visual equipment are to be made 5 days in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

At least one member of the panel will be attending the oral argument remotely via electronic audio/visual communication equipment. The remote judge(s) will have access only to the courtesy copy of the demonstrative exhibits previously submitted by email, as discussed above. 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 hearing to ensure the clarity and accuracy of the reporter's transcript.

Case IPR2015-00697 (Patent 7,905,815 B2)

Case IPR2015-00698 (Patent 8,092,345 B2)

Case IPR2015-00700 (Patent 8,579,767 B2)

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