

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

Case IPR2015-01009 (Patent 8,843,643 B2)
Case IPR2015-01010 (Patent 8,843,643 B2)

Before KARL D. EASTHOM, ROBERT J. WEINSCHENK, and
BETH Z. SHAW, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

ORDER¹
Oral Hearing
35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70

¹ We exercise our discretion to issue one identical order in each case using this caption style. Unless otherwise authorized, the parties are not permitted to use this style. This order cites to the record of the IPR2015-01009, unless otherwise noted.

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The Scheduling Orders for the above-listed cases set the date for the oral hearing as July 19, 2016. Paper 10, 6. Petitioner requests an oral hearing pursuant to 37 C.F.R. § 42.70. Paper 25. Patent Owner does not request an oral hearing, but indicates that it will participate if an oral hearing is held. Paper 26. Petitioner's request for an oral hearing is *granted*.

The hearing will commence at 10:00 AM ET on July 19, 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 that will be accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Each party will have a total of forty-five (45) minutes to present any arguments relating to the above-listed cases. Petitioner bears the ultimate burden of proof that the claims under review in these cases are unpatentable. Therefore, Petitioner will proceed first, and Patent Owner will follow. Petitioner may then use any time Petitioner reserved for rebuttal. The parties are reminded that the presenter must identify clearly and specifically any demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript and the ability of all judges to follow the presenter's arguments.

Under 37 C.F.R. § 42.70(b), the parties shall serve any demonstrative exhibits upon each other at least seven (7) business days prior to the hearing. The parties also shall provide the demonstrative exhibits to the Board at least two (2) business days prior to the hearing by emailing them to Trials@uspto.gov. The parties shall not file any demonstrative exhibits in this case without prior authorization. The parties are directed to *St. Jude*

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Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan, Case IPR2013-00041, Paper 65, 2–5 (PTAB Jan. 27, 2014), for guidance regarding the appropriate content of 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 must initiate a conference call with the Board at least two (2) business days prior to the hearing to resolve any objections to demonstrative exhibits. Any objection to demonstrative exhibits that are not timely presented at least two (2) business days prior to the hearing will be considered waived.

We expect lead counsel for each party to attend the hearing. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012). However, any counsel of record may present the party's arguments. If either party anticipates that its lead counsel will not attend the hearing, the parties shall request and make themselves available for a conference call with the Board to occur no later than two (2) business days prior to the hearing to discuss the reasons for that lead counsel's absence.

Any requests regarding special equipment or needs, such as 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 directed to the identified email address not less than five (5) business days before the hearing.

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PETITIONER:

Jeffrey P. Kushan

Scott M. Border

Thomas A. Broughan III

SIDLEY AUSTIN LLP

IPRNotices@sidley.com

sborder@sidley.com

tbroughan@sidley.com

PATENT OWNER:

Joseph E. Palys

Naveen Modi

PAUL HASTINGS LLP

josephpalys@paulhastings.com

naveenmodi@paulhastings.com