

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN MEGATRENDS, INC., MICRO-
STAR INTERNATIONAL CO., LTD, MSI COMPUTER CORP.,
GIGA-BYTE TECHNOLOGY CO., LTD., and G.B.T., INC.,
Petitioners,

v.

KINGLITE HOLDINGS INC.,
Patent Owner.

Case IPR2015-01094
Patent 6,401,202 B1

Before TREVOR M. JEFFERSON and BRIAN J. McNAMARA,
Administrative Patent Judges.

JEFFERSON, *Administrative Patent Judge.*

ORDER
Conduct of the Proceedings – Oral Argument
37 C.F.R. § 42.5

A trial in this proceeding was instituted on November 6, 2015. Paper 16 (“Decision to Institute”). A Scheduling Order entered set the oral hearing for August 1, 2016, if hearing is requested by the parties and granted by the Board. Paper 17 (“Scheduling Order”). American Megatrends, Inc., Micro-Star International Co., Ltd., MSI Computer Corp., Giga-Byte Technology, Co., Ltd., and G.B.T., Inc. (collectively, “Petitioner”) has requested oral hearing pursuant to 37 C.F.R. § 42.70. Paper 40. The request is GRANTED.

Each party will have 45 minutes of total argument time. Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Therefore, at oral hearing Petitioner will proceed first to present its case with regard to the challenged claims on which basis we instituted trial. Petitioner may also present argument in support of its Motion to Exclude. Thereafter, Kinglite Holdings LLC (“Patent Owner”) will argue its opposition to Petitioner’s case and Petitioner’s Motion to Exclude. Patent Owner will also present its own case with regard to its Motion to Amend and Motion to Exclude, as Patent Owner bears the burden of proof on these motions. Petitioner may use any time Petitioner reserved to oppose Patent Owner’s Motion to Amend and Motion to Exclude and to rebut Patent Owner’s opposition to both Petitioner’s challenges to the claims and Patent Owner’s opposition to Petitioner’s Motion to Exclude. Finally, Patent Owner may use any time it reserved solely to rebut Petitioner’s opposition to Patent Owner’s Motion to Amend and Petitioner’s opposition to Patent Owner’s Motion to Exclude.

There is a strong public policy interest in making all information presented in these proceedings public, as the review determines the

patentability of claims in an issued patent and thus affects the rights of the public. This policy is reflected in part, for example, in 35 U.S.C. § 316(a)(1) and 35 U.S. C. § 326(a)(1) which provide that the file of any inter partes review or post grant review be made available to the public, except that any petition or document filed with the intent that it be sealed shall, if accompanied by a motion to seal, be treated as sealed pending the outcome of the ruling on the motion. There are no motions to seal in the present proceeding. Accordingly, the Board exercises its discretion to make the oral hearing publically available via in-person attendance.

Specifically, the hearing will commence at 10:00 AM on August 1, 2016 on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first come first serve basis.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. Any demonstrative exhibits must be served five business days before the hearing. 37 C.F.R. § 42.70(b). Demonstrative exhibits are not evidence and may not introduce new evidence or arguments. Instead, demonstrative exhibits should cite to evidence in the record. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case No. IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), and *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case No. IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118), regarding the appropriate content of demonstrative exhibits. Any issue regarding demonstrative exhibits should be resolved at least three days prior to the hearing by way of a joint telephone conference call to the Board. The

parties are responsible for requesting such a conference sufficiently in advance of the hearing to accommodate this requirement. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

If demonstratives are to be used during oral argument, they must be served before the hearing in accordance with 37 C.F.R. § 42.70(b). Copies of the demonstratives should also be sent by email (not filed via PRPSPTAB E2E) to the Board no later than three days before the hearing. A hard copy of the demonstratives should be provided to the court reporter at the hearing.

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.** 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.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, lead or backup counsel 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 conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

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PETITIONER:

Vivek Ganti
vg@hkw-law.com

Gregory Ourada
go@hkw-law.com

PATENT OWNER:

Christopher Frerking
chris@ntknet.com