

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ELEKTA, INC.,  
Petitioner,

v.

VARIAN MEDICAL SYSTEMS, INC.,  
Patent Owner.

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Case IPR2016-00317 (Patent 7,945,021 B2)  
Case IPR2016-00476 (Patent 8,116,430 B1)  
Case IPR2016-00547 (Patent 7,945,021 B2)<sup>1</sup>

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Before BRIAN J. MCNAMARA, PATRICK M. BOUCHER, and  
GARTH D. BAER, Administrative Patent Judges.

BAER, Administrative Patent Judge.

*Requests for Oral Argument*  
37 C.F.R. § 42.70

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<sup>1</sup> The parties are not authorized to use this style of caption.

IPR2016-00317 (Patent 7,945,021 B2)  
IPR2016-00476 (Patent 8,116,430 B1)  
IPR2016-00547 (Patent 7,945,021 B2)

As set forth in the Scheduling Orders, oral argument for cases IPR2016-00317, IPR2016-00476, and IPR2016-00547 (if requested) is scheduled for February 28, 2017. Paper 16 in IPR2016-00317, Paper 13 in IPR2016-00476, Paper 10 in IPR2016-00547. Petitioner and Patent Owner request oral hearing. Papers 34 and 35 in IPR2016-00317, Papers 34 and 35 in IPR2016-00476, Papers 27 and 28 in IPR2016-00547. The parties' requests for oral hearing are *granted*.

There will be a single, combined oral hearing for the issues presented in cases IPR2016-00317, IPR2016-00476, and IPR2016-00547. The hearing will commence at 2:00 PM on February 28, 2017, on the ninth floor of the Madison Building East, 600 Dulany Street, Alexandria, Virginia. The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. The hearing will be open to the public for in-person attendance on a first-come, first-served basis.

Each party will have forty five (45) minutes of total oral argument time. Petitioner bears the ultimate burden of proof that the claims at issue in these reviews are unpatentable. Therefore, at oral hearing Petitioner will proceed first to present its case with regard to the challenged claims in IPR2016-00317, IPR2016-00476, and IPR2016-00547. Petitioner may reserve rebuttal time. Thereafter, Patent Owner will respond to Petitioner's case. After that, Petitioner will make use of the rest of its time responding to Patent Owner's presentation on all matters.

Any demonstrative exhibits must be served seven 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,

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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*, IPR2013-00033, Paper 118 (Oct. 23, 2013), 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. Demonstratives should be filed at the Board no later than two days before the hearing. A hard copy of the demonstratives should be provided to the court reporter at the hearing.

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 expects 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 2 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](mailto:Trials@uspto.gov). Requests for special equipment will not be honored unless presented in a separate communication not less than 5 days before the hearing directed to the above email address. The parties are reminded that the presenter must identify clearly and specifically each demonstrative

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exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one panel member will be attending the hearings electronically from a remote location and that if a demonstrative is not filed or otherwise made fully available or visible to the judge presiding over the hearing remotely, that demonstrative will not be considered.

### ORDER

Oral argument in IPR2016-00317, IPR2016-00476, and IPR2016-00547 will commence at 2:00 PM on February 28, 2017, on the ninth floor of the Madison Building East, 600 Dulany Street, Alexandria, Virginia.

For PETITIONER:

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