

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC.,
Petitioner,

v.

WINDY CITY INNOVATIONS, LLC,
Patent Owner.

IPR2016-01067; Patent 8,407,356 B1¹
IPR2016-01141; Patent 8,458,245 B1²
IPR2016-01155; Patent 8,694,657 B1³
IPR2016-01156; Patent 8,458,245 B1⁴
IPR2016-01157; Patent 8,407,356 B1
IPR2016-01158; Patent 8,473,552 B1
IPR2016-01159; Patent 8,694,657 B1⁵

Before KARL D. EASTHOM, DAVID C. MCKONE, and J. JOHN LEE,
Administrative Patent Judges.

MCKONE, *Administrative Patent Judge.*

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Case IPR2017-00624 has been joined with this proceeding.

² Case IPR2017-00655 has been joined with this proceeding.

³ Case IPR2017-00622 has been joined with this proceeding.

⁴ Case IPR2017-00709 has been joined with this proceeding.

⁵ Case IPR2017-00659 has been joined with this proceeding.

IPR2016-01067, IPR2016-01141, IPR2016-01155, IPR2016-01156,
IPR2016-01157, IPR2016-01158, IPR2016-01159

The Revised Scheduling Order set October 19, 2017, as the date for oral argument in each of the above-captioned cases, if requested by the parties and granted by the Board. Paper 43.⁶ Both Petitioner and Patent Owner have requested oral argument in each case. Papers 50, 51. Petitioner requests one hour per side to argue collectively the cases originally filed by Facebook and thirty minutes per side to argue collectively the cases originally filed by Microsoft (since terminated as to Microsoft due to settlement). Paper 50, 2. Patent Owner requests one hour to present its arguments, although it is not clear whether Patent Owner requests one hour for all cases or one hour for each case. Paper 51, 1.

The parties' requests for oral argument are granted. Oral arguments will commence at 9:00 am Eastern Time on October 19, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Due to the extensive overlap among the cases, we will hold a combined hearing for all of the above-captioned cases starting at 9:00 am. Each party is allotted one hour and thirty minutes total to present its case. Although, in this Order, we do not divide this time among the cases, we advise the parties to meet and confer to agree on a logical order of presentation.

Petitioner will open the hearing by presenting its arguments regarding the challenged claims for which the Board instituted trial. Petitioner may reserve time for rebuttal arguments. Patent Owner will then respond to Petitioner's arguments. Petitioner may then present rebuttal arguments. Patent Owner may not respond to Petitioner's rebuttal arguments. We note that Patent Owner has filed papers styled Motions to Exclude Evidence.

⁶ We refer to the papers filed in IPR2016-01067. Similar papers were filed by the parties in each of the above-captioned cases.

IPR2016-01067, IPR2016-01141, IPR2016-01155, IPR2016-01156,
IPR2016-01157, IPR2016-01158, IPR2016-01159

Paper 53. These motions, however, do not appear to address the admissibility of evidence; rather, they argue that Petitioner's replies exceed proper scope. The Panel is capable of determining whether a reply exceeds its proper scope. Nevertheless, the parties should be prepared to answer questions from the Panel regarding the Motions to Exclude.

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 via in-person attendance on a first-come, first-served basis.

At least seven (7) business days prior to the hearing, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing. *See* 37 C.F.R. § 42.70(b). The parties should attempt to work out any objections to demonstratives prior to involving the Board. At least two (2) business days prior to the hearing, the parties shall file the demonstrative exhibits with the Board. *See id.* 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 parties must initiate a conference call with the Board at least two business days before the hearing to present any objection regarding the propriety of any demonstrative exhibit. Any objection to demonstrative exhibits that is not timely presented will be considered waived. As demonstrative exhibits are not themselves evidence, the Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice.

IPR2016-01067, IPR2016-01141, IPR2016-01155, IPR2016-01156,
IPR2016-01157, IPR2016-01158, IPR2016-01159

The parties are reminded that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during each hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one member of the panel will be attending the hearing electronically from a remote location and that if a demonstrative is not filed or otherwise made fully available or visible to the remote judge, that demonstrative will not be considered. The parties also should note that a panel member appearing remotely may not be able to hear the parties unless they speak into the microphone at the podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present in person at the hearing. If a 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. Any counsel of record, however, may present the party's argument.

The parties are reminded to direct their requests for audio-visual equipment to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the above email address not less than five days before the hearing. If the request is not received timely, the equipment may not be available on the day of the hearing.

IPR2016-01067, IPR2016-01141, IPR2016-01155, IPR2016-01156,
IPR2016-01157, IPR2016-01158, IPR2016-01159

ORDER

It is

ORDERED that oral arguments for these proceedings shall take place beginning at 9:00 am Eastern Time on October 19, 2017, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria.

PETITIONER:

Heidi Keefe
Phillip E. Morton
Andrew C. Mace
Mark R. Weinstein
Daniel J. Knauss
COOLEY LLP
hkeefe@cooley.com
pmorton@cooley.com
amace@cooley.com
dknauss@cooley.com
mweinstein@cooley.com

PATENT OWNER:

Peter Lambrianakos
Vincent Rubino
Alfred R. Fabricant
Brown Rudnick LLP
plambrianakos@brownrudnick.com
vrubino@brownrudnick.com
afabricant@brownrudnick.com