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Paper 28
Entered: November 28, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TCT MOBILE, INC. AND TCT MOBILE (US) INC.,
Petitioner,

v.

WIRELESS PROTOCOL INNOVATIONS, INC.,
Patent Owner.

Cases IPR2016-01494, -01704, -01861, and -01865
Patents 8,274,991 B2; 8,565,256 B2; and 9,125,051 B2

Before KEVIN F. TURNER, MITCHELL G. WEATHERLY, and KAMRAN JIVANI, *Administrative Patent Judges.*

WEATHERLY, *Administrative Patent Judge*.

ORDER
Oral Hearing
37 C.F.R. § 42.70

Inter partes review IPR2016-01494 was instituted on February 13, 2107. IPR2016-01494, Paper 8. *Inter partes* review IPR2016-01704 was instituted March 3, 2017. IPR2016-01704, Paper 6. *Inter partes* reviews IPR2016-01861 and -01865 were instituted on March 24, 2017. Paper 8 in both proceedings. The date for the oral hearing in IPR2016-01494, -01704, -01861, and -01865, if granted pursuant to a request of a party, was set for

December 7, 2017. IPR2016-01494, Paper 19; IPR2016-01704, Paper 16, Paper 9 in IPR2016-01861 and -01865. Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. Papers 29 and 30 in IPR2016-01494 and -01704; Papers 28 and 29 in IPR2016-01861; and Papers 26 and 27 in IPR2016-001865. Petitioner's and Patent Owner's requests for oral hearing are *granted*.

The hearing will commence at 1:00 p.m., on December 7, 2017, on the ninth floor of 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 that will be accommodated on a first-come, first-served basis.

Each party will have ninety minutes to present arguments. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in this review are unpatentable. Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Patent Owner will then respond to Petitioner's argument. Petitioner may reserve time to respond to arguments presented by Patent Owner.

Demonstrative exhibits in this proceeding are not evidence and are intended only to assist the parties in presenting their oral argument to the panel. Under 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served on opposing counsel at least seven (7) business days before the oral hearing, and filed as an exhibit no later than the time of the oral hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least three (3) business days prior to the oral hearing by emailing the exhibits to Trials@uspto.gov. The parties are directed to *St. Jude*

Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan, IPR2013-00041 (PTAB January 27, 2015) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits, which must include citations to the record.

If either party objects to demonstrative exhibits, the parties shall meet and confer in good faith to resolve any such objections. A party may file a paper addressing any unresolved objections to demonstrative exhibits with the Board no later than three (3) business days before the oral hearing. The paper shall include a single sentence per objection stating the basis for that objection and be accompanied by a copy of the allegedly objectionable demonstrative exhibit that identifies the objectionable portion of the exhibit with particularity. No further argument or explanation is permitted. We will consider the objections and, if we deem it necessary, we will further address the objections in a conference call or at the oral hearing. Otherwise, we will reserve ruling on the objections until after the oral 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 parties also should note that at least one member of the panel will be attending the oral hearing electronically from a remote location. Paper copies of the demonstrative exhibits may be submitted to the panel during the hearing but are not required. Because of limitations of the audio transmission systems in the hearing room, the presenter should speak only when standing at the hearing room lectern. If the parties have questions about whether demonstrative exhibits would be sufficiently visible to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

Requests for audio-visual equipment are to be made no later than five (5) days in advance of the hearing date via email to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

We expect 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 panel no later than two (2) business days prior to the oral hearing to discuss the matter.

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