

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PANDUIT CORP.,  
Petitioner,

v.

CORNING OPTICAL COMMUNICATIONS LLC,  
Patent Owner.

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Cases<sup>1</sup>  
IPR2017-00009 (Patent 9,020,320 B2)  
IPR2017-00029 (Patent 8,538,226 B2)

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Before BEVERLY M. BUNTING, JENNIFER MEYER CHAGNON, and  
TERRENCE W. McMILLIN, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

ORDER  
ORAL ARGUMENT  
37 C.F.R. § 42.70

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<sup>1</sup> This Order addresses issues that are the same in each case. Therefore, we exercise our discretion to issue one paper to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

IPR2017-00009 (Patent 9,020,320 B2)

IPR2017-00029 (Patent 8,538,226 B2)

We instituted the above-identified *inter partes* reviews. IPR2017-00009, Paper 7; IPR2017-00029, Paper 7. Both parties request oral argument pursuant to 37 C.F.R. § 42.70 in each of the proceedings. IPR2017-00009, Papers 31, 32; IPR2017-00029, Papers 18, 19. The requests are *granted*.

The oral argument will commence at **1:00 PM Eastern Time**, on **January 9, 2018**, and will be conducted at the **Midwest Regional USPTO Office, 300 River Place South, Suite 2900, Detroit, Michigan**.<sup>2</sup> The oral argument will be open to the public for in-person attendance that will be accommodated on a first-come, first-serve basis. To expedite entry into the hearing room, each party is asked to send an email message to [Trials@uspto.gov](mailto:Trials@uspto.gov) five days prior to the oral argument, indicating the names of those planning to attend the oral argument for its side (attorneys and others). If the parties have any concern about disclosing confidential information, they are requested to contact the Board at least 7 days in advance of the oral argument to discuss the matter.

The parties will first present arguments for IPR2017-00009. Each party will have 30 minutes to present its arguments, for a total of 60 minutes. Because Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable, Petitioner will proceed first to present its case as to the challenged claims and grounds on which the Board instituted trial. Thereafter, Patent Owner will respond to Petitioner's case. Petitioner may reserve some of its argument time for use in further presentation after Patent Owner has responded to Petitioner's initial presentation. No live testimony

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<sup>2</sup> See <https://www.uspto.gov/about-us/uspto-locations/detroit-michigan> for additional information.

IPR2017-00009 (Patent 9,020,320 B2)

IPR2017-00029 (Patent 8,538,226 B2)

from any witness will be taken at the oral argument. After a brief recess, the parties will have 30 minutes each to present arguments for IPR2017-00029, using this same format.

The Board expects lead counsel for each party to be present at oral argument, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party will not be in attendance at oral argument, the Board should be notified via a joint telephone conference call no later than two business days prior to the oral argument to discuss the matter.

The Board will provide a court reporter for the oral argument, and the reporter's transcript will constitute the official record of the oral argument. The oral argument transcript will be entered in the record of this proceeding.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the oral argument date. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the oral argument by emailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov). At least three business days before the oral argument, each of the parties shall file in the proceedings any demonstrative exhibits by filing as a single exhibit its set of demonstrative exhibits for oral argument.<sup>3</sup>

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<sup>3</sup> The demonstrative exhibits are not evidence and will not be considered as evidence unless otherwise ordered.

IPR2017-00009 (Patent 9,020,320 B2)

IPR2017-00029 (Patent 8,538,226 B2)

The parties must file any objections to the demonstratives with the Board at least two business days before the oral argument. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. 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. *See also CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118) (The Board has the discretion to limit the parties' demonstratives to pages in the record should there be no easy resolution to objections over demonstratives.).

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 oral argument to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that two panel members will be attending the oral argument electronically and will only have access to the demonstratives provided in advance, as referenced above.

Requests for audio-visual equipment are to be made 5 days in advance of the oral argument date. The request is to be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If

IPR2017-00009 (Patent 9,020,320 B2)

IPR2017-00029 (Patent 8,538,226 B2)

the request is not received timely, the equipment may not be available on the day of the oral argument.

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