

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KINGSTON TECHNOLOGY COMPANY, INC.,
Petitioner,

v.

POLARIS INNOVATIONS LTD.,
Patent Owner.

Case IPR2017-00114 (Patent 7,206,978 B2)¹
Case IPR2017-00116 (Patent 7,334,150 B2)

Before SALLY C. MEDLEY, BARBARA A. PARVIS, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

ORDER
Request for Oral Hearing
37 C.F.R. § 42.70

¹ This order addresses issues that are the same in all identified cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

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We instituted *inter partes* review (*see, e.g.*, Paper 10)² in the above-referenced proceedings and issued a consolidated Scheduling Order (*see, e.g.*, Paper 11), which sets the date for oral hearing to December 6, 2017, if oral hearing is requested by either party and granted by the Board. The parties requested an oral hearing pursuant to 37 C.F.R. § 42.70 in each of these *inter partes* review proceedings. *See, e.g.*, Paper 23; Paper 24. Upon consideration by the panel, the parties' requests are granted.

The hearing will commence at **1:00 PM Eastern Time, on December 6, 2017**, and will be conducted at the **USPTO Headquarters, Ninth Floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, 22314**.³ The hearing will be open to the public for in-person attendance that will be accommodated on a first come first serve basis.

The parties have provided their proposals for the oral hearing. Petitioner requests no more than one hour per side of oral argument time. *See, e.g.*, Paper 23. Patent Owner requests at least 60 minutes to address the issues in each proceeding. *See, e.g.*, Paper 24. The parties will be given 45 minutes per side for each proceeding, for a total of 1 ½ hours per side.

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 of the challenged patents and instituted grounds of unpatentability. Thereafter, Patent Owner will respond to Petitioner's case. After that, Petitioner will make use of the rest of its time for its rebuttal, responding to Patent Owner's specific arguments presented

² Paper numbers are provided for IPR2017-00114, unless otherwise noted.

³ See <https://www.uspto.gov/about-us/uspto-locations/alexandria-virginia-headquarters> for additional information.

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at the oral hearing. No live testimony from any witness will be taken at the oral argument.

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 no later than seven business days before the hearing date. They shall be filed with the Board no later than five business days prior to the hearing date. The parties must initiate a conference call with the Board at least three business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. 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 Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party is unable to attend the oral argument, the Board should be notified via a joint telephone conference call no later than five business days prior to the oral hearing to discuss the matter.

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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 transcript will be entered in the record of these proceedings.

Any requests regarding special equipment or needs, such as for audio-visual equipment, should be directed to Trials@uspto.gov. Requests for audio-visual equipment are to be made at least five business days in advance of the hearing date.

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