

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION, GLOBALFOUNDRIES U.S., INC.,
MICRON TECHNOLOGIES, INC., and
SAMSUNG ELECTRONICS COMPANY, LTD.,
Petitioners,¹

v.

DANIEL L. FLAMM,
Patent Owner.

Cases IPR2017-00279, IPR2017-00280, IPR2017-00281, and
IPR2017-00282 (Patent RE40,264 E);
Case IPR2017-00391 (Patent 6,017,221); and
Cases IPR2017-00392 and IPR2017-00406 (Patent 5,711,849)²

Before CHRISTOPHER L. CRUMBLEY, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ In some of these related cases, Intel Corporation is the first-named Petitioner; in others, Micron Technologies, Inc. is first-named. All four companies are parties to all cases, therefore we exercise our discretion to issue this Order under a consolidated caption.

² Samsung Electronics Company was joined to these proceedings via Motions for Joinder in IPR2017-01746, IPR2017-01747, IPR2017-01748, IPR2017-01749, IPR2017-01750, IPR2017-01751, and IPR2017-01752.

IPR2017-00279, IPR2017-00280, IPR2017-00281,
IPR2017-00282 (Patent RE40,264 E);
IPR2017-00391 (Patent 6,017,221);
IPR2017-00392, IPR2017-00406 (Patent 5,711,849)

Petitioners Intel Corporation, GLOBALFOUNDRIES U.S., Inc., Micron Technologies, Inc., and Samsung Electronics Company, Ltd., and Patent Owner Daniel L. Flamm, each requested oral argument in these related *inter partes* review trials pursuant to 37 C.F.R. § 42.70. Papers 15, 16.³ Upon consideration, these requests are *granted*. Oral argument shall commence at 10:00 AM Eastern Time on March 7, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

Petitioners propose that argument in cases pertaining to the same patent be consolidated, and request a certain amount of time for each set of cases. Patent Owner makes no specific requests regarding the order or duration of argument. Petitioners' proposals are reasonable, and the argument will be divided as follows, beginning at 10:00 AM and continuing until complete, with recesses as appropriate:

IPR2017-00279, IPR2017-00280,
IPR2017-00281, IPR2017-0028245 minutes per side
IPR2017-0039120 minutes per side
IPR2017-00392, IPR2017-0040630 minutes per side

Parties may divide time between cases in each group as they wish. Petitioners bear the ultimate burden of proof that the claims at issue in the reviews are unpatentable. Therefore, Petitioners⁴ will open the hearing by

³ Where substantively identical papers may be found in the records of all related cases, for simplicity we cite only to the record of IPR2017-00279.

⁴ In our Decision granting joinder, we ordered Petitioners to collectively designate attorneys to present at the oral hearing as a consolidated presentation. Paper 12, 7.

IPR2017-00279, IPR2017-00280, IPR2017-00281,
IPR2017-00282 (Patent RE40,264 E);
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presenting argument regarding the pending grounds of unpatentability. Patent Owner will then have the opportunity to respond to Petitioners' arguments. If desired, Petitioners may reserve rebuttal time not to exceed half the total time allotted. Petitioners are cautioned that rebuttal time may only be used to respond to arguments made during Patent Owner's argument.

The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing. No Motions to Seal have been filed in this proceeding. Accordingly, the Board concludes that the parties are capable of presenting their arguments without discussing confidential information, and exercises its discretion to make the oral hearing publicly accessible. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

Demonstrative exhibits shall be served on opposing counsel at least five business days before the hearing, and filed with the Board no later than two business days before the hearing. 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 Board expects that the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved the parties may file any objections to demonstratives with the Board at least two business days before the hearing. The objections should identify with particularity which portions of the demonstrative exhibits are subject to objection and include a one-sentence statement of the

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basis for each objection. No argument or further explanation is permitted. The Board will consider any objections and schedule a conference call if deemed necessary. Otherwise, the Board will reserve ruling on the objections. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

At least one member of the panel may attend oral argument remotely by use of two-way audio-visual communication equipment. 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 Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party's argument. If any 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 special requests for audio visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication not less than five days before the hearing directed to the above email address.

In light of the foregoing, it is:

ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 10:00 AM Eastern Time on March 7, 2018.

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IPR2017-00282 (Patent RE40,264 E);
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