

Trials@uspto.gov
Tel: 571-272-7822

IPR2017-00350, Paper 28
IPR2017-00351, Paper 28
IPR2017-00352, Paper 28
IPR2017-00524, Paper 26
Entered: February 16, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FREDMAN BROS. FURNITURE COMPANY, INC.,
Petitioner,

v.

BEDGEAR, LLC,
Patent Owner.

Cases¹

IPR2017-00350 (Patent 8,887,332 B2);
IPR2017-00351 (Patent 9,015,883 B2);
IPR2017-00352 (Patent 8,646,134 B1);
IPR2017-00524 (Patent 9,155,408 B2)

Before HYUN J. JUNG, BART A. GERSTENBLITH, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

JUNG, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ We exercise our discretion to issue one order to be entered in each case. The parties are not authorized to use a caption identifying multiple proceedings.

IPR2017-00350 (Patent 8,887,332 B2)
IPR2017-00351 (Patent 9,015,883 B2)
IPR2017-00352 (Patent 8,646,134 B1)
IPR2017-00524 (Patent 9,155,408 B2)

The parties requested oral argument pursuant to 37 C.F.R. § 42.70 in each of the above-captioned proceedings. Papers 25, 26 in IPR2017-00350; Paper 25, 26 in IPR2017-00351; Papers 25, 26 in IPR2017-00352; Papers 23, 24 in IPR2017-00524. The parties' requests are *granted*.

Petitioner requests combining oral argument for all proceedings into one hearing. *See, e.g.*, Paper 25 in IPR2017-00350. Oral argument for all four proceedings, thus, will be heard together and will commence at 10:00 AM Eastern Time on March 20, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia 22314. The hearing will be open to the public for in-person attendance, and in-person attendance will be accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

The parties each request a total of 90 minutes to address all four cases. *See, e.g.*, Papers 25, 26 in IPR2017-00350. In view of the substantial overlap in arguments and evidence in IPR2017-00350, IPR2017-00351, and IPR2017-00352, we allocate each party forty five (45) minutes of total argument time for the four cases. The parties may use their forty five minutes to present their arguments as they see fit, but the parties must make clear to the panel to which case(s) a particular argument applies. If the panel requires a lengthy examination of a party's argument, the panel may extend argument time. If the panel extends argument time for one party, the panel will extend argument time for the other party by an equal amount.

Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, at the hearing, Petitioner will proceed first to

IPR2017-00350 (Patent 8,887,332 B2)
IPR2017-00351 (Patent 9,015,883 B2)
IPR2017-00352 (Patent 8,646,134 B1)
IPR2017-00524 (Patent 9,155,408 B2)

present its arguments with regard to the challenged claims and grounds on which basis we instituted trial in these proceedings. Petitioner may reserve rebuttal time. Thereafter, Patent Owner will argue its opposition to Petitioner's case. Petitioner may then use any time Petitioner reserved to rebut Patent Owner's opposition.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least *seven business days* before the hearing. The parties also shall file a copy of the demonstratives as an exhibit at least *seven business days* prior to the hearing. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties shall meet and confer to discuss any objections to demonstrative exhibits at least *three business days* before the hearing. If any issues regarding demonstratives remain unresolved after the parties meet and confer, the parties shall file jointly a one-page list of objections to the demonstrative exhibits at least *two business days* before the hearing. For each objection, the list must identify with particularity the demonstratives subject to the objection and include a short, one-sentence statement explaining the objection. The panel will consider the objections and schedule a conference call if necessary. Otherwise, rulings on the objections will be reserved until the hearing or after the hearing. Any objection to demonstrative exhibits not presented timely will be considered waived. The parties are reminded that the demonstrative exhibits presented in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the

IPR2017-00350 (Patent 8,887,332 B2)
IPR2017-00351 (Patent 9,015,883 B2)
IPR2017-00352 (Patent 8,646,134 B1)
IPR2017-00524 (Patent 9,155,408 B2)

panel. Each party shall provide a hard copy of its demonstratives to the court reporter at the hearing.

The Board expects lead counsel for each party to be present in person at the hearing. Lead or backup counsel, however, may present the party's argument. If either party anticipates that its lead counsel will not be attending the hearing, that party should initiate a joint telephone conference with the other party and the panel no later than *three business days* prior to the hearing to discuss the matter.

Requests for audio-visual equipment are to be made *five business days* in advance of the hearing date. The request is to be sent to Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

It is

ORDERED that oral argument will commence at 10:00 AM Eastern Time on March 20, 2018, in Alexandria, Virginia.

IPR2017-00350 (Patent 8,887,332 B2)
IPR2017-00351 (Patent 9,015,883 B2)
IPR2017-00352 (Patent 8,646,134 B1)
IPR2017-00524 (Patent 9,155,408 B2)

PETITIONER:

Jason R. Mudd
Eric A. Buresh
ERISE IP
jason.mudd@eriseip.com
eric.buresh@eriseip.com
ptab@eriseip.com

PATENT OWNER:

Joseph J. Richetti
Frank Fabiani
Alexander Walden (*pro hac vice*)
BRYAN CAVE LLP
joe.richetti@bryancave.com
frank.fabiani@bryancave.com
alexander.walden@bryancave.com
PTAB-NY@bryancave.com