

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WESTINGHOUSE AIR BRAKE TECHNOLOGIES CORPORATION
(d/b/a WABTEC CORPORATION),
Petitioner,

v.

SIEMENS MOBILITY, INC.,
Patent Owner.

Case IPR2017-01263 (Patent 6,996,461 B2),
Case IPR2017-01454 (Patent 6,978,195 B2),
Case IPR2017-00580 (Patent 9,233,698 B2)¹

Before KRISTEN L. DROESCH, MEREDITH C. PETRAVICK, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

ORDER
Oral Argument
37 C.F.R. § 42.70

¹ This Order addresses overlapping issues in the proceedings listed above. Therefore, we issue one Order to be filed in each proceeding. The parties, however, are not authorized to use this style of filing.

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We instituted an *inter partes* review for IPR2017-01263 on October 25, 2017. IPR2017-01263 (“1263 IPR”), Paper 10. We instituted an *inter partes* review for IPR2017-01454 on December 8, 2017. IPR2017-01454 (“1454 IPR”), Paper 11. Petitioner and Patent Owner requested oral argument pursuant to 37 C.F.R. § 42.70. 1263 IPR, Papers 31, 32; 1454 IPR Papers 24, 25. We instituted an *inter partes* review for IPR2017-00580 on July 20, 2017. IPR2017-00580 (“580 IPR”), Paper 12. Oral argument for the 580 IPR was held on April 17, 2018. 580 IPR, Paper 54. Subsequent to the oral hearing, in view of *SAS Institute Inc. v. Iancu*, 138 S.Ct. 1348 (April 24, 2018), the one-year period for issuing a Final Written Decision was extended and an order was issued setting a supplemental briefing schedule, including additional oral argument. 580 IPR, Papers 51–53. Petitioner requested additional oral argument pursuant to 37 C.F.R. § 42.70. 580 IPR, Paper 67. Patent Owner did not request additional oral argument for the 580 IPR.

The parties’ requests are GRANTED. Although the cases captioned above are not consolidated, the hearings will be held together and one transcript will be provided for all cases. The hearing will commence at **1:00 PM ET, on August 17, 2018**, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

For the 1263 IPR, Patent Owner requests 60 minutes of argument for each party, and Petitioner requests 45 minutes for each party. 1263 IPR, Paper 31, 1, Paper 32, 2. For the 1454 IPR, Patent Owner requests 45 minutes of argument for each party, and Petitioner request 30 minutes for each party. 1454 Paper 24, 1, Paper 25, 2. For the 580 IPR, Petitioner requests 15 minutes of argument. 580 IPR, Paper 67, 1. Based on the record

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before us, we determine each party will have ninety (90) minutes total time to present arguments for the 1263 IPR, 1454 IPR, and the 580 IPR.

Specifically, each party is allotted 45 minutes of argument time for the 1263 IPR, 30 minutes of argument time for the 1454 IPR, and 15 minutes of argument time for the 580 IPR.

Petitioner bears the ultimate burden of proof that the claims at issue in these reviews are unpatentable. The panel will first hear argument concerning the 1263 IPR. Petitioner will present arguments regarding the challenged claims and grounds, and may reserve argument time for use in rebuttal after Patent Owner has responded to Petitioner's initial presentation. Thereafter, Patent Owner will argue its opposition to Petitioner's case, having available to it the entirety of its allotted argument time. To the extent Petitioner reserves rebuttal time, Petitioner then may make use of that rebuttal time responding to Patent Owner. The panel will then turn to the 1454 IPR, and the arguments for that case will proceed in like fashion. Next, Petitioner will present its arguments regarding the post-SAS supplemental briefing in the 580 IPR, Patent Owner will respond, and Petitioner will have the opportunity to use rebuttal time it reserved.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served seven (7) business days before the hearing. The parties also shall file a copy of the demonstratives as an exhibit at least three (3) 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 January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

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The Board expects the parties will meet and confer in good faith to resolve any objections to demonstrative exhibits. If such objections cannot be resolved, the parties shall jointly file with the Board a one-page list of the objections to demonstrative exhibits at least three (3) 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. No argument or further explanation is permitted. We will consider the objections and schedule a conference call if necessary. Otherwise, we will reserve ruling on the objections. Any objection to demonstrative exhibits not presented timely will be considered waived.

Lead counsel for each party is expected to be present in person at the oral hearing. Any counsel of record, however, may present the party's arguments. If either party expects 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 three (3) business days prior to the oral hearing to discuss the matter.

The hearing will be open to the public for in-person attendance, accommodated on a first-come-first-serve basis. A court reporter will be provided for the hearing and the reporter's transcript will constitute the official record of the hearing. Each party shall provide a hard copy of their demonstratives to the court reporter at the hearing.

One or more members of the panel hearing this case will attend the hearing remotely via a videoconferencing device and, therefore, will not be able to view the projection screen in the hearing room. Consequently, the parties are reminded that the presenter must identify clearly and specifically

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each demonstrative exhibit (e.g., by slide or screen number) or page of the record referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript.

Any special requests for audio-visual equipment should be directed to Trials@uspto.gov no later than five (5) business days prior to the oral hearing.

Accordingly, it is:

ORDERED that oral hearing, conducted pursuant to the procedures outlined above, shall commence at 1:00 PM ET on August 17, 2018.

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