

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LIVEPERSON, INC.,  
Petitioner,

v.

24/7 CUSTOMER, INC.,  
Patent Owner.

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Case IPR2017-00610  
Patent 9,077,804 B2

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Before CHRISTOPHER L. CRUMBLEY, ROBERT J. WEINSCHENK,  
and JASON W. MELVIN, *Administrative Patent Judges*.

CRUMBLEY, *Administrative Patent Judge*.

ORDER  
Trial Hearing  
*37 C.F.R. § 42.70*

Petitioner LivePerson, Inc. and Patent Owner 24/7 Customer, Inc. jointly requested oral argument in this *inter partes* review trial pursuant to 37 C.F.R. § 42.70. Paper 31. Specifically, each party requests 30 minutes of argument time to address various issues pertaining to the patentability of U.S. Patent No. 9,077,804. *Id.* Upon consideration, the requests are

*granted*. Oral argument shall commence at 1:00 PM Eastern Time on April 10, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

LivePerson, as Petitioner, bears the ultimate burden of proof that the claims at issue in the *inter partes* review are unpatentable. Therefore, LivePerson will open the hearing by presenting argument regarding the pending grounds of unpatentability. 24/7 Customer will then have the opportunity to respond to LivePerson's arguments. If desired, LivePerson may reserve rebuttal time not to exceed half the total time allotted. LivePerson is cautioned that rebuttal time may only be used to respond to arguments made during 24/7 Customer'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. All pages of demonstrative exhibits should be clearly marked with the legend "DEMONSTRATIVE EXHIBIT—NOT EVIDENCE." 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 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.

A member of the panel may attend oral argument remotely by use of two-way audio-visual communication equipment. The parties are reminded that counsel must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to assist any remote judges in following the presentation, and 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](mailto:Trials@uspto.gov). Requests for special equipment will not be honored

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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 1:00 PM Eastern Time on April 10, 2018.

PETITIONER:

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