

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FEDEX CORPORATION,
Petitioner,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

Case IPR2017-00729 (Patent 8,494,581 B2)
Case IPR2017-00741 (Patent 6,633,900 B1)
Case IPR2017-00787 (Patent 7,199,715 B2)
Case IPR2017-00859 (Patent 9,047,586 B2)¹

Before TREVOR M. JEFFERSON, DAVID C. MCKONE,
BARBARA A. PARVIS, and JOHN A. HUDALLA,
*Administrative Patent Judges.*²

PARVIS, *Administrative Patent Judge.*

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

¹ This Order addresses the same issues in these *inter partes* reviews. Therefore, we issue one Order to be filed in all of the cases. The parties, however, are not authorized to use this style of filing in subsequent papers.

² This is not an order from an expanded panel of the Board.

Judges McKone, Parvis, and Hudalla are paneled on IPR2017-00729, IPR2017-00741, and IPR2017-00787. Judges Jefferson, McKone, and Hudalla are paneled on IPR2017-00859

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We instituted *inter partes* review (Paper 7)³ in the instant proceedings and issued a Scheduling Order (Paper 8) in each proceeding, which sets the date for oral hearing to April 26, 2018, if oral hearing is requested by either party and granted by the Board. The parties requested oral hearings pursuant to 37 C.F.R. § 42.70. *See, e.g.*, Paper 28; Paper 29. The parties' requests are granted.

The hearings will commence at 10:00 AM Eastern Time, on April 26, 2018, and will be conducted at the UPSTO Headquarters, Ninth Floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, 22314. The parties will be given a one-hour break at 12:00 PM Eastern Time. The hearings will be open to the public for in-person attendance that will be accommodated on a first come, first served basis.

The parties have provided their proposals for the oral hearings. Upon review of the record, we set the following schedule for oral argument.

| IPR/Challenged Patent | Time Hearing will Commence | Minutes for Oral Argument |
|--|-----------------------------------|----------------------------------|
| IPR2017-00729 (Patent 8,494,581 B2) | 10 AM Eastern Time | 30 minutes per side |
| IPR2017-00741 (Patent 6,633,900 B1) | 11 AM Eastern Time | 30 minutes per side |
| IPR2017-00787 (Patent 7,199,715 B2) | 1 PM Eastern Time | 30 minutes per side |
| IPR2017-00859 (Patent 9,047,586 B2) | 2 PM Eastern Time | 30 minutes per side |

Because Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable, in each hearing, Petitioner will proceed first to present its case as to the challenged claims of the challenged patent

³ Paper numbers are provided for IPR2017-00729, unless otherwise noted.

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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 at the oral hearing.

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 hearings 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 parties are reminded that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during each hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that at least one member of each panel will be attending the hearings electronically from a remote

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location and that if a demonstrative is not filed or otherwise made fully available or visible to the judge presiding over the hearings, that demonstrative will not be considered. The parties also should note that the panel member appearing remotely might not be able to hear the parties unless they speak into the microphone at the podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all of the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present at oral hearings, 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 hearings to discuss the matter.

The Board will provide a court reporter for the hearings, and the reporter's transcript will constitute the official record of the hearings. The hearing transcripts 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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