

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP,
Petitioner,

v.

BENHOV GMBH, LLC,
Patent Owner.

Case IPR2017-00930
Patent 8,170,884 B2

Before BARBARA A. PARVIS, DANIEL N. FISHMAN, and
CHARLES J. BOUDREAU, Administrative Patent Judges.

FISHMAN, Administrative Patent Judge.

ORDER
Trial Hearing
37 C.F.R. § 42.70

Both parties requested oral argument pursuant to 37 C.F.R. § 42.70(a). Papers 17, 21. The requests are *granted* and each party will be allotted sixty (60) minutes for argument.

The hearing will commence at 1:00 PM ET, on Monday, April 30, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The Board will provide a court reporter, and the reporter's transcript will constitute the official record of the hearing.

Petitioner bears the ultimate burden of proof that Patent Owner's patent claims at issue are unpatentable. Petitioner will proceed first to present its case with respect to the challenged patent claims and grounds with respect to which the Board instituted. Petitioner may reserve some of its argument time to respond to Patent Owner's presentation. Thereafter, Patent Owner will respond to Petitioner's arguments. Lastly, Petitioner may make use of the time it has reserved, if any, to rebut Patent Owner's opposing presentation regarding patentability.

Demonstrative exhibits must be served on the opposing party at least five (5) business days before the hearing date. 37 C.F.R. § 42.70(b). The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five (5) business days prior to the hearing by emailing them to Trials@uspto.gov. **Despite the requirement in § 42.70(b) to file demonstratives, the parties shall *not* file any demonstrative exhibits in this proceeding without prior authorization from the Board.**

The parties should note that at least one member of the panel will be attending the hearing electronically from a remote location. The parties are

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reminded that each presenter must identify clearly and specifically each document, exhibit, or demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript and for the benefit of judges participating electronically from remote locations.

The parties must file any objections to the demonstrative exhibits with the Board at least three (3) business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and schedule a conference call to address them, if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. 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.

Requests for audio-visual equipment are to be made five (5) business days in advance of the hearing date. The request is to be sent to Trials@uspto.gov or should be directed to the Board at (571) 272-9797. If the request is not received timely, the equipment may not be available on the day of the hearing.

The Board expects lead counsel for each party to be present at the hearing, although lead or back-up counsel of record may make the presentation. If either party anticipates that its lead counsel will not attend

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the oral argument, the parties should initiate a joint telephone conference with the Board no later than two (2) business days prior to the oral hearing to discuss the matter.

The parties are reminded that, at the oral argument, they “may rely upon evidence that has been previously submitted in the proceeding and may only present arguments relied upon in the papers previously submitted.”

Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768

(Aug. 14, 2012). “No new evidence or arguments may be presented at the oral argument.” *Id.*

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Accordingly, it is

ORDERED that oral argument will commence at 1:00 PM ET,
on Monday, April 30, 2018, on the ninth floor of Madison Building East,
600 Dulany Street, Alexandria, Virginia.

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