

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ROVI GUIDES, INC.,
Patent Owner.

Cases

IPR2017-00950 (Patent 8,006,263 B2)
IPR2017-00951 (Patent 8,006,263 B2)
IPR2017-00952 (Patent 8,006,263 B2)¹

Before KEVIN F. TURNER, MICHAEL R. ZECHER, and
JESSICA C. KAISER, *Administrative Patent Judges*.

ZECHER, *Administrative Patent Judge*.

ORDER

Oral Argument

35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70

¹ This Order addresses issues that are identical in all three cases. We, therefore, exercise our discretion to issue one Order to be filed in each case. The parties, however, are not authorized to use this style heading in any subsequent papers.

IPR2017-00950 (Patent 8,006,263 B2)

IPR2017-00951 (Patent 8,006,263 B2)

IPR2017-00952 (Patent 8,006,263 B2)

On September 20, 2017, we instituted an *inter partes* review as to claims 1–19 of U.S. Patent No. 8,006,263 B2 (Ex. 1001,² “the ’263 patent) in each of the proceedings identified above. Paper 12. The parties request oral argument for these proceedings pursuant to 37 C.F.R. § 42.70(a). Papers 33, 34. The parties’ requests are *granted*.

Petitioner, Comcast Cable Communications, LLC (“Comcast”), requests one (1) hour and thirty (30) minutes, in total, to present oral arguments. Paper 33, 2–3. Patent Owner, Rovi Guides, Inc. (“Rovi”), requests one (1) hour, in total, to present oral arguments. Paper 34, 2. We have reviewed the issues that the parties intend to address for each proceeding, and we agree with Comcast that each party should be accorded 1 hour and 30 minutes of total time to present oral arguments.

Comcast bears the ultimate burden of proof that claims 1–19 of the ’263 patent are unpatentable based on the grounds of unpatentability (“grounds”) instituted in these proceedings. 35 U.S.C. § 316(e) (“[T]he petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”). Consequently, Comcast will proceed first to present its case as to these claims and the grounds instituted in each proceeding. Comcast may reserve rebuttal time. Thereafter, Rovi will respond to Comcast’s case. Comcast then will make use of its rebuttal time to respond to Rovi’s case.

The hearing will commence at 1:00PM Eastern Time on Thursday, May 17, 2018, and it will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia (Hearing Room

² Unless otherwise noted, all citations to papers and exhibits refer to those filed in Case IPR2017-00950. Similar papers and exhibits were filed in Cases IPR2017-00951 and IPR2017-00952.

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A). In-person attendance will be accommodated on a first-come first-serve basis. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served no later than seven (7) business days before the hearing date. They shall be filed with the Board no later than the time of the hearing. **Demonstrative exhibits are not evidence, but merely a visual aid for use at the hearing.** Demonstrative exhibits shall not introduce new arguments or evidence. The parties must initiate a conference call with us at least two (2) business days prior to the hearing date to resolve any dispute over the propriety of each party's demonstrative exhibits. Regardless of whether the propriety of any demonstrative exhibit is disputed by either party, we consider demonstrative exhibits only to the extent (1) that they elucidate the parties' arguments presented during the hearing; *and* (2) that they include only arguments and/or evidence already of record in these proceedings. For further guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118).

We take this opportunity to remind the parties that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript. The parties also should note that two members of the panel will be attending the hearing electronically from remote locations. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to each of the Administrative Patent Judges presiding over the hearing, the parties are invited to contact the Board at 571-272-9797.

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The Board expects lead counsel for each party to be present at the hearing; however, any backup counsel may make the actual presentation, in whole or in part. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012). If lead counsel for either party is unable to attend the hearing, the parties shall request a joint telephone conference call no later than two (2) business days prior to the hearing date to discuss the matter.

Requests for special accommodations or audio-visual equipment are to be made at least five (5) business days in advance of the hearing date. Such requests must be sent to Trials@uspto.gov. If the requests are not received timely, requested accommodations and/or equipment may not be available on the day of the hearing.

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