

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)
IPR2017-01048 (Patent 8,578,413 B2)
IPR2017-01049 (Patent 8,578,413 B2)
IPR2017-01050 (Patent 8,578,413 B2)
IPR2017-01065 (Patent 8,046,801 B2)
IPR2017-01066 (Patent 8,046,801 B2)
IPR2017-01143 (Patent 8,046,801 B2)¹

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

TURNER, *Administrative Patent Judge*.

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

¹ This Order addresses issues that are identical in all nine 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.

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Patents 8,006,263 B2; 8,578,413 B2; 8,046,801 B2;

On April 20, 2018, we issued a trial order in Cases IPR2017-00950 IPR2017-00951, and IPR2017-00952, granting the parties, Comcast Cable Communications, LLC (“Comcast”) and Rovi Guides, Inc. (“Rovi”), requests for oral hearing, setting the date for a consolidated oral hearing as May 17, 2018. Papers 35, 35, 34, respectively. On May 2, 2018, we had a conference call with the parties to discuss implications of the Supreme Court holding in *SAS Inst., Inc. v. Iancu*, 2018 WL 1914661, at *10 (U.S. Apr. 24, 2018). On that conference call, the parties indicated that they wished to have a consolidated oral hearing involving all of the cited proceedings, because the closeness of the issues involved. The parties indicated a preference for June 19, 2018 for such a consolidated oral hearing. The parties confirmed this request during a conference call on May 7, 2018. Subsequently, requests for oral hearing were received from both parties in the remaining proceedings.

As such, we rescind our prior order in Cases IPR2017-00950, IPR2017-00951, and IPR2017-00952. Papers 35, 35, 34, respectively. We set forth the requirements for a consolidated oral hearing covering all nine proceedings below.

We have reviewed the issues that the parties intend to address for each proceeding, and we provide that each party should be accorded 2 hours of total time to present oral arguments. Comcast bears the ultimate burden of proof that all challenged claims of the 8,006,263 B2, 8,578,413 B2, and 8,046,801 B2 patents are unpatentable based on the grounds of unpatentability (“grounds”) in each proceeding. 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

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first to present its case as to these claims and the grounds. 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 **10:00AM** Eastern Time on Tuesday, **June 19, 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 A). The hearing will accommodate a one hour lunch break from approximately 12:00PM to 1:00PM and recommence thereafter. 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).

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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.

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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