

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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STINGRAY DIGITAL GROUP, INC.,  
Petitioner,

v.

MUSIC CHOICE,  
Patent Owner.

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Case IPR2017-01450, Patent 9,414,121 B1<sup>1</sup>  
Case IPR2017-01192, Patent 8,769,602 B1

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Before MITCHELL G. WEATHERLY, GREGG I. ANDERSON, and  
JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

ORDER  
*Granting* Request for Oral Argument  
37 C.F.R. § 42.70

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<sup>1</sup> We exercise our discretion to issue one order to be entered in each of the above-referenced proceedings. The Parties are not authorized to use this style heading without prior Board approval.

IPR2017-01450 (Patent 9,414,121 B1)  
IPR2017-01192 (Patent 8,769.602 B1)

On June 11, 2018, Petitioner requested 30 minutes of oral argument per side in IPR2017-01192. Paper 21.<sup>2</sup> On June 18, 2018, both Petitioner and Patent Owner requested oral argument in IPR2017-01450. Papers 31, 32. Petitioner requested 30 minutes of argument per side (Paper 32, 1), and Patent Owner requested 45 minutes of argument per side for both IPR2017-01450 and IPR2017-01192 (Paper 31, 1).

The requests for oral argument are *granted*, each party will have forty five (45) minutes of *total* argument time, and the oral argument will commence at 1:00 p.m. Eastern Time on July 16, 2018. The hearing will be held on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia 22314. The hearing will be open to the public for in-person attendance, which 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. Two members of the panel will be electronically attending the hearing from a remote location.

In each proceeding, Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable. Therefore, Petitioner will proceed first, and will present its arguments with regard to the challenged claims and grounds. Petitioner may reserve some of its time for rebuttal. Thereafter, Patent Owner may respond to Petitioner's arguments, having available to it the entirety of its allotted time. Petitioner may then make use of any rebuttal time it has reserved to respond to Patent Owner's arguments.

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<sup>2</sup> Unless otherwise noted, all papers referenced herein are papers in IPR2017-01450. In this instance, however, Paper 21 refers to the paper filed in IPR2017-01192.

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Currently pending in IPR2017-01450 is Patent Owner's motion to exclude, on which Patent Owner bears the burden of proof. Paper 30. To the extent Patent Owner wishes to argue the merits of that motion at the hearing, it may do so during the time allotted above. Patent Owner may also reserve time to be used solely to rebut arguments raised in opposition to its motion to exclude. Petitioner may raise such arguments during Petitioner's rebuttal period.

Demonstrative exhibits in this proceeding are not evidence and are intended only to assist the parties in presenting their oral argument to the panel. At the hearing, a hard copy of the demonstrative exhibits should be provided to the court reporter. Any party referencing a demonstrative exhibit must clearly and specifically identify the referenced exhibit (e.g., by page or slide number) to ensure the clarity and accuracy of the reporter's transcript, and to assist remote panel members.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits shall be served on opposing counsel at least seven (7) business days before the oral hearing, and filed as an exhibit no later than the time of the oral hearing. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least three (3) business days prior to the oral hearing by emailing the exhibits to [Trials@uspto.gov](mailto:Trials@uspto.gov). 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, 2015) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits, which must include citations to the record.

If either party objects to demonstrative exhibits, the parties shall meet and confer in good faith to resolve any such objections. A party may file a

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paper addressing any unresolved objections to demonstrative exhibits with the Board no later than three (3) business days before the oral hearing. The paper shall include a single sentence per objection stating the basis for that objection and be accompanied by a copy of the allegedly objectionable demonstrative exhibit that identifies the objectionable portion of the exhibit with particularity. No further argument or explanation is permitted. We will consider the objections and, if we deem it necessary, we will further address the objections in a conference call or at the oral hearing. Otherwise, we will reserve ruling on the objections until after the oral hearing.

Questions regarding specific audio-visual equipment that may be needed to facilitate the presentation of demonstrative exhibits should be directed to the Board at (571) 272-9797. Requests for specific audio-visual equipment, including overhead projectors and screens, should be made five business days in advance of the hearing, and should be sent directly to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the request is not timely received, the equipment may not be available on the day of the hearing.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, lead or backup counsel may put forward a party's arguments. If either party anticipates that its lead counsel will not be attending the oral hearing, 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.

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