

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ITRON, INC.,
Petitioner,

v.

SMART METER TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2017-01199
Patent 7,058,524 B2

Before BRYAN F. MOORE, BARBARA A. BENOIT, and
JOHN D. HAMANN, *Administrative Patent Judges*.

HAMANN, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

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Itron, Inc. (“Petitioner”) and Smart Meter Technologies, Inc. (“Patent Owner”) each requested oral hearing in this proceeding pursuant to 37 C.F.R. § 42.70. *See* Papers 24, 25. The requests are *granted*. The hearing for IPR2017-01199 will commence at **9:00 AM EDT on Thursday, June 7, 2018**, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, VA. The Board will provide a court reporter. The transcript shall constitute the official record of the hearing and be filed in IPR2017-01199. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

Each party will have forty-five (45) minutes of total time to present arguments. Petitioner bears the burden of persuasion that the claims at issue are unpatentable. Therefore, Petitioner will open the hearing by presenting its case regarding the challenged claims and instituted grounds. Thereafter, Patent Owner will respond to Petitioner’s arguments. Next, Petitioner may use any time it has reserved for rebuttal to respond to arguments presented by Patent Owner.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days prior to the hearing. The parties shall confer with each other regarding any objections to demonstrative exhibits. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the hearing by emailing them to Trials@uspto.gov. Demonstrative exhibits *shall not be filed* unless a party receives prior authorization from the Board. For any issue that cannot be resolved after conferring with the opposing party, the parties may file jointly a one-page list of objections at least two business days prior to the hearing.

The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one sentence) of the reason for each objection. No argument or further explanation is permitted. We will consider the objections and schedule a conference call if necessary. Otherwise, we will reserve ruling on the objections until the hearing or after the hearing. Any objection to demonstrative exhibits that is not presented timely will be considered waived. Each party also shall provide a hard copy of its demonstrative exhibits to the court reporter at the hearing.

The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 (PTAB Jan. 27, 2014), regarding the appropriate content of demonstrative exhibits. The parties are reminded that the 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 Board expects lead counsel for Petitioner and Patent Owner to be present at the hearing, although any back-up counsel may make the actual presentation, in whole or in part. If lead counsel for any party will not be in attendance at the hearing, the Board should be notified via a joint conference call no later than two days prior to the hearing to discuss the matter.

Requests for audio-visual equipment at the hearing are to be made five days in advance of the hearing date. The requests must be sent to *Trials@uspto.gov*. If the requests are not received timely, equipment may not be available on the day of the hearing. Further, if the parties have

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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.

PETITIONER:

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