

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MARKER VOLKL USA, INC.,
Petitioner,

v.

KNEEBINDING, INC.,
Patent Owner

Case IPR2017-01265
Patent 8,955,867

Before MICHAEL W. KIM, PATRICK R. SCANLON, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*

ORDER
Trial Hearing
37 C.F.R. § 42.70

Petitioner and Patent Owner each request oral hearing pursuant to 37 C.F.R. § 42.70. Papers 24, 25. Upon consideration, the requests for oral hearing are *granted*.

The hearing shall commence at **2:00 PM** Eastern Time on **Monday, June 25, 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 for the hearing and the reporter's transcript will constitute the official record of the hearing.

Each party will have **sixty (60) minutes** of total time to present arguments. Petitioner will proceed first to present its case with regard to the challenged claims on which the Board instituted trial. Thereafter, Patent Owner may respond to Petitioner's case. Thereafter, Petitioner may use any of its remaining time for rebuttal regarding the challenged claims.

At least seven (7) business days prior to the hearing, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing. *See* 37 C.F.R. § 42.70(b). At least two (2) business days prior to the hearing, the parties shall file the demonstrative exhibits with the Board. *See id.* The parties should attempt to work out any objections to demonstratives prior to involving the Board. The parties must initiate a conference call with the Board at least three (3) business days before the hearing to present any objection regarding the propriety of any demonstrative exhibit. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The Board asks the parties to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of*

Michigan, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The parties are reminded 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 at least one member of the panel may be attending the hearing electronically from a remote location, and that if a demonstrative is not filed or otherwise made fully available or visible to all judges at the hearing, that demonstrative will not be considered. If the parties have 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.

The parties also are reminded that, at the hearing, they may only rely upon evidence that has been previously submitted in the proceeding, and is of record at the time of the hearing, and may only present arguments that have been previously made in the submitted substantive papers, which are generally limited to the petition, patent owner response, petitioner's reply, motions to exclude, observations, and sur-replies that are of record at the time of the hearing. The parties may also refer to anything in the Decision on Institution.

The Board expects lead counsel for each party to be present in person at the hearing. If a party anticipates that its lead counsel will not be attending the oral argument, 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. Any counsel of record, however, may present the party's arguments.

Requests for audio-visual equipment are to be made at least five business days in advance of the date of the hearing by sending the request to

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Trials@uspto.gov. If the request is not received timely, the equipment may not be available on the day of the hearing.

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