

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SMITH & NEPHEW, INC. and
ARTHROCARE CORP.,
Petitioners,

v.

ARTHREX, INC.,
Patent Owner.

Case IPR2017-00275
Patent 9,179,907 B2

Before WILLIAM V. SAINDON, BARRY L. GROSSMAN, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

Petitioners and Patent Owner request an oral hearing pursuant to 37 C.F.R. § 42.70(a). Paper 23; Paper 24. The parties' requests are *granted*. The hearing will commence at 1:00 p.m. (ET) on February 20, 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, and in-person attendance will be accommodated on a first-come, first-served basis. If the parties have any concern about disclosing confidential information, they are to contact the Board at least *seven business days* before the hearing to discuss the matter.

Petitioners are allotted 45 minutes of argument time. Likewise, Patent Owner is allotted 45 minutes of argument time. Petitioners bear the ultimate burden of proof that the claims at issue in these reviews are unpatentable. Therefore, at the hearing, Petitioners will proceed first to present arguments with regard to the challenged claims and grounds on which basis we instituted trial in these proceedings. Petitioners may reserve argument time for use in rebuttal after Patent Owner has responded to Petitioners' initial presentation. Thereafter, Patent Owner will argue its opposition to Petitioners' case, having available to it the entirety of its allotted argument time. To the extent Petitioners reserve rebuttal time, Petitioners then may make use of that rebuttal time responding to Patent Owner.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least *seven business days* before the hearing. The parties also shall file a copy of the demonstratives as an exhibit at least *seven business days* prior to 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 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding

the appropriate content of demonstrative exhibits. The parties shall meet and confer to discuss any objections to demonstrative exhibits. If any issues regarding demonstratives remain unresolved after the parties meet and confer, the parties shall file jointly a one-page list of objections to the demonstrative exhibits at least *three business days* before the hearing. For each objection, the list must identify with particularity the demonstratives subject to the objection and include a short, one-sentence statement explaining the objection. We will consider the objections and schedule a conference call if necessary. Otherwise, we will reserve ruling on the objections. Any objection to demonstrative exhibits not presented timely will be considered waived.

One or more members of the panel hearing this case will attend the hearing remotely via a videoconferencing device and, therefore, will not be able to view the projection screen in the hearing room. Consequently, the parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) or page of the record referenced during the hearing.

We will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. Each party shall provide a hard copy of their demonstratives to the court reporter at the hearing. Requests for audio-visual equipment must be presented in a separate communication directed to Trials@uspto.gov not less than *five days* before the hearing.

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Patent 9,179,907 B2

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