

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

TOSHIBA CORPORATION, TOSHIBA MEMORY CORPORATION, and  
TOSHIBA AMERICA ELECTRONIC COMPONENTS, INC.,  
Petitioner,

v.

MACRONIX INTERNATIONAL CO., LTD.,  
Patent Owner.

---

Case IPR2017-01632  
Patent 8,035,417 B1

---

Before KEN B. BARRETT, JENNIFER S. BISK, and JASON M. REPKO,  
*Administrative Patent Judges.*

REPKO, *Administrative Patent Judge.*

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

Both parties request oral hearing for each of these proceedings pursuant to 37 C.F.R. § 42.70. Paper 15 (Patent Owner's Request); Ex. 3003 (Petitioner's Request).<sup>1</sup> The requests are *granted*.

Oral hearing will commence at **1:00 PM ET on September 14, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia**. The hearings 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 hearing's official record. Each party will have **one hour** of total time to present arguments in this case.

Petitioner will open the hearing by presenting its case regarding the challenged claims for which we instituted trial. Patent Owner will follow. Petitioner may reserve rebuttal time.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served seven business days before the hearing. They shall be filed at the Board before the hearing. It is preferred that the demonstrative exhibits be filed

---

<sup>1</sup> The Patent Trial and Appeal Board End to End filing system (PTAB E2E) was unavailable on the due date of the request (August 17, 2018). Petitioner served the request for oral argument on Patent Owner via email and notified the Board of the service also via email. *See* Ex. 3002 (Petitioner's email); Ex. 3003 (Petitioner's Request for Oral Argument attached to email). According to the USPTO's website, "if PTAB E2E is unavailable during normal business hours or other unscheduled outage periods, petitions (and other documents) may be served on opposing counsel via email, and the Board notified of the service by email copying opposing counsel." *See* United States Patent and Trademark Office, *PTAB E2E FAQ, A2* (Aug. 31, 2018), <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/ptab-e2e-frequently-asked-questions>. On these facts, we treat Petitioner's request as timely.

before 5:00 pm ET on September 13, 2018, to ensure the judges have access to those in advance of the hearing. The parties must initiate a conference call with the Board by two business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. Any dispute over the propriety of demonstrative exhibits that is not timely presented two business days prior to the hearing will be considered waived. The parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (PTAB Oct. 23, 2013) regarding the appropriate content of demonstrative exhibits. 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 that is not presented timely will be considered waived.

The parties are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during each hearing to ensure the clarity and accuracy of the reporter's transcript.

**Requests for audio-visual equipment are to be made five business days in advance of the hearing date. The request is to be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov). If the request is not received timely, the equipment may not be available on the day of the hearing.**

The Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in whole or in part. If lead counsel for either party is unable to attend the oral argument, the Board should be notified via a joint telephone conference call no later than two business days prior to the oral hearing to discuss the matter.

IPR2017-01632  
Patent 8,035,417 B1

Accordingly, it is

ORDERED that oral argument will commence at 1:00 PM ET, on September 14, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

IPR2017-01632  
Patent 8,035,417 B1

PETITIONER:

Kevin C. Hamilton  
Steven L. Park  
Gerald T. Sekimura  
DLA PIPER LLP (US)  
kevin.hamilton@dlapiper.com  
steven.park@dlapiper.com  
gerald.sekimura@dlapiper.com

PATENT OWNER:

Timothy W. Riffe  
Ayan Roy-Chowdhury  
Ryan Chowdhury  
Kevin Su  
Christian A. Chu  
Michael J. McKeon  
FISH & RICHARDSON P.C.  
riffe@fr.com  
roy-chowdhury@fr.com  
rchowdhury@fr.com  
su@fr.com  
chu@fr.com  
mckeon@fr.com