

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPTS TECHNOLOGIES LTD.,
Petitioner,

v.

PLASMA-THERM LLC,
Patent Owner.

Case IPR2017-01674
Patent 8,802,545 B2

Before WILLIAM V. SAINDON, ELIZABETH M. ROESEL, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

WIEKER, *Administrative Patent Judge*.

ORDER

Oral Argument

35 U.S.C. § 316(a)(10) and 37 C.F.R. § 42.70

On January 11, 2018, we instituted an *inter partes* review proceeding as to claims 1, 2, 4, and 5 of U.S. Patent No. 8,802,545 B2. Paper 7. The Scheduling Order (Paper 8) for this proceeding provided that an oral hearing would be conducted if a hearing is requested by the parties and granted by the Board. Both parties request oral argument, pursuant to 37 C.F.R. § 42.70(a). Papers 21, 23. The parties' requests are *granted*.

The hearing will commence at **10:00 AM Eastern Time on October 10, 2018**, and will be open to the public for in-person attendance on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come, first-served basis. We will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Petitioner requests forty-five (45) minutes of oral argument time. Paper 21. Patent Owner also requests forty-five (45) minutes of oral argument time. Paper 23. We have reviewed the issues that the parties intend to address in this proceeding and, consistent with the parties' requests, we determine that each party will be accorded forty-five (45) minutes of total argument time.

Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable. 35 U.S.C. § 316(e). Petitioner, therefore, will open the hearing by presenting its case regarding the challenged claims and Patent Owner's proposed substitute claims. After Petitioner's presentation, Patent Owner may respond to Petitioner's argument. Petitioner may reserve time for rebuttal, out of its allotted time, to respond to argument presented by Patent Owner. Patent Owner may also reserve time for sur-rebuttal, out of

its allotted time, to respond to argument presented by Petitioner in its rebuttal.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits, if any, must be served no later than seven (7) business days before the hearing date.

They shall be filed with the Board no later than five (5) business days before the hearing date. **Demonstrative exhibits are merely a visual aid for use at the hearing and not evidence**, and should be clearly marked as such.

For example, each slide may be marked with the words

“DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer.

Demonstrative exhibits shall not introduce new arguments or evidence. The parties shall meet and confer to discuss any objections to demonstrative exhibits at least three (3) business days before the hearing. 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 two (2) 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. For further guidance on what constitutes an appropriate demonstrative exhibit, the parties are directed to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118).

We take this opportunity to remind the parties 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.

IPR2017-01674
Patent 8,802,545 B2

Requests for special accommodations or audio-visual equipment are to be made at least five (5) business days in advance of the hearing date. Such requests must be sent to Trials@uspto.gov. If the requests are not received timely, requested accommodations and/or equipment may not be available on the day of the hearing.

PETITIONER:

Adam C. Volentine
Josh Povsner
Volentine, Whitt & Francos PLLC
avolentine@volentine.com
jpovsner@volentine.com

PATENT OWNER:

Harvey S. Kauget
Ryan M. Corbett
Burr & Forman LLP
hkauget@burr.com
rcorbett@burr.com