

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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POWER-PACKER NORTH AMERICA, INC.  
*d/b/a* GITS MANUFACTURING CO.,  
Petitioner,

v.

G.W. LISK CO., INC.,  
Patent Owner.

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Cases IPR2017-02034; IPR2017-02035<sup>1</sup>  
Patent 6,601,821 B2

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Before BART A. GERSTENBLITH, GEORGE R. HOSKINS, and  
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

ORDER

Granting the Parties' Requests for Oral Argument  
*37 C.F.R. § 42.70*

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<sup>1</sup> We exercise our discretion to issue one Order that applies to each of these proceedings. The parties may not use this caption style.

IPR2017-02034; IPR2017-02035  
Patent 6,601,821 B2

The parties request oral argument pursuant to 37 C.F.R. § 42.70. IPR2017-02034, Papers 21, 22; IPR2017-02035, Papers 19, 20. The requests are *granted*. Although these cases are not consolidated, the hearings will be held together and a single transcript will be provided for both cases.

Oral argument will be held on Wednesday, December 12, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, commencing at 1:00 p.m. Eastern Time. Each party will have 90 minutes of total argument time for both cases. Given the overlap in subject matter between the cases, it appears that the most efficient format for argument is for the parties to present their arguments for both cases concurrently. Petitioner bears the ultimate burden of proof that the claims at issue in these reviews are unpatentable. 35 U.S.C. § 316(e). Petitioner will proceed first to present its case with regard to the challenged claims in both proceedings and argue its own motions, if any. Thereafter, Patent Owner may respond to Petitioner's arguments in both proceedings and may argue its own motions, if any. If Petitioner or Patent Owner reserves time for rebuttal or sur-rebuttal, respectively, that time may be used to respond to arguments presented by the other party in its immediately preceding presentation. *See* Trial Practice Guide Update (August 2018) at 20, *available at* [www.uspto.gov/sites/default/files/documents/2018\\_Revised\\_Trial\\_Practice\\_Guide.pdf](http://www.uspto.gov/sites/default/files/documents/2018_Revised_Trial_Practice_Guide.pdf). The parties are reminded that they "may only present arguments relied upon in the papers previously submitted." *Id.* at 23.

The Board will provide a court reporter for the oral argument, and the reporter's transcript will constitute the official record of the oral argument. Live testimony will not be taken from any witness at the oral argument. The

oral argument will be open to the public for in-person attendance. Attendees 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 10 days** in advance of the oral argument to discuss the matter. Any counsel of record may present the party's argument.

Any demonstrative exhibits must be served **seven (7) business days** before the oral argument. 37 C.F.R. § 42.70(b). **Demonstrative exhibits are not evidence and may not introduce new evidence or arguments.** Instead, demonstrative exhibits should cite to evidence in the record. 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), regarding the appropriate content of demonstrative exhibits. The parties shall confer regarding any objection either party has to the other party's demonstrative exhibits and attempt to resolve the objections. Should the objections not be resolved, the parties must file any objections to the demonstratives with the Board at least **three (3) business days** before the oral argument. Any objection to demonstrative exhibits that is not presented timely will be considered waived. The objections should identify with particularity which demonstratives are subject to objection and include a short (one sentence or less) statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider the objections and either schedule a conference call to discuss and rule on the objections or will discuss the objections during the oral argument and rule on the objections either at the oral argument or after. Demonstratives should be filed at the Board no later

IPR2017-02034; IPR2017-02035  
Patent 6,601,821 B2

than **three (3) business days** before the oral argument. A hard copy of the demonstratives should be provided to the court reporter at the oral argument.

Questions regarding specific audio-visual equipment should be directed to the Board at 571-272-9797. Requests for audio-visual equipment are to be made **at least five (5) business days** in advance of the oral argument 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 oral argument. 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 oral argument to ensure the clarity and accuracy of the reporter's transcript. Two members of the panel will attend the oral argument electronically from remote locations. We will not consider a demonstrative that is either not filed or otherwise fully available to the judges presiding over the oral argument remotely. 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.

IPR2017-02034; IPR2017-02035  
Patent 6,601,821 B2

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