

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS INC.,  
Petitioner,

v.

SMART AUTHENTICATION IP, LLC,  
Patent Owner.

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Case IPR2017-02047  
Patent 8,082,213 B2

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Before KEVIN W. CHERRY, MICHELLE N. WORMMEESTER, and  
JAMES A. WORTH, *Administrative Patent Judges*.

WORMMEESTER, *Administrative Patent Judge*.

ORDER  
Oral Hearing  
*37 C.F.R. § 42.70*

We instituted *inter partes* review (*see* Paper 9) in this proceeding and issued a Scheduling Order (Paper 10) that sets the date for oral hearing as November 6, 2018, if a hearing is requested by either party and granted by the Board. Petitioner requests oral hearing pursuant to 37 C.F.R. § 42.70. Paper 22. Patent Owner did not file a request for oral hearing. We grant Petitioner's request.

The hearing will commence at **1:00 PM Eastern Time**, on **November 6, 2018**, and will be conducted at the **USPTO Headquarters, Ninth Floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia 22314**. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come first-served basis. If the parties have any concern about disclosing confidential information, they are requested to contact the Board at least three business days in advance of the hearing to discuss the matter.

We grant one hour of oral argument time to each party, for a total of two hours. Because Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable, Petitioner will proceed first to present its case as to the challenged claims and instituted grounds of unpatentability. Thereafter, Patent Owner will respond to Petitioner's case. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. No live testimony from any witness will be taken at the oral argument.

The parties are reminded that under 37 C.F.R. § 42.53(f)(7), a proponent of deposition testimony must file such testimony as an exhibit. The Board will not consider any deposition testimony that has not been so filed.

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Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served no later than seven business days before the hearing date. They shall be filed with the Board no later than five business days prior to the hearing date. The parties must initiate a conference call with the Board at least three business days prior to the hearing to resolve any dispute over the propriety of each party's demonstrative exhibits. 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. *See also CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, Case IPR2013-00033 (PTAB Oct. 23, 2013) (Paper 118) (The Board has the discretion to limit the parties' demonstratives to pages in the record should there be no easy resolution to objections over demonstratives.).

If a demonstrative is not made available to the Board in the manner indicated above, that demonstrative may not be available to each of the judges during the hearing and may not be considered. Additionally, 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 hearing to ensure the clarity and accuracy of the reporter's transcript. Because of limitations on the audio transmission systems in our hearing rooms, the presenter may speak only when standing at the hearing room podium. If the parties have questions as to whether demonstrative exhibits would be sufficiently visible and available to all the judges, the parties are invited to contact the Board at (571) 272-9797.

The Board expects lead counsel for each party to be present at oral hearing, although any backup counsel may make the actual presentation, in

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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 five business days prior to the oral hearing to discuss the matter.

The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing. The hearing transcript will be entered in the record of this proceeding.

Any requests regarding special equipment or needs, such as for audio-visual equipment, should be directed to [Trials@uspto.gov](mailto:Trials@uspto.gov). Requests for audio-visual equipment are to be made at least five business days in advance of the hearing date.

It is

ORDERED that oral argument will commence at 1:00 PM ET on November 6, 2018, in Alexandria, Virginia.

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