

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

PROMPTU SYSTEMS CORPORATION,
Patent Owner.

IPR2018-00340 (Patent 7,260,538)¹
IPR2018-00341 (Patent 7,260,538)
IPR2018-00342 (Patent RE44,326)
IPR2018-00343 (Patent RE44,326)
IPR2018-00344 (Patent 7,047,196)
IPR2018-00345 (Patent 7,047,196)

Before JAMESON LEE, ROBERT L. KINDER, and ALEX S. YAP,
Administrative Patent Judges.

KINDER, *Administrative Patent Judge.*

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ We issue one Order and enter it in each proceeding.

IPR2018-00340 (Patent 7,260,538); IPR2018-00341 (Patent 7,260,538)
IPR2018-00342 (Patent RE44,326); IPR2018-00343 (Patent RE44,326)
IPR2018-00344 (Patent 7,047,196); IPR2018-00345 (Patent 7,047,196)

Petitioner, Comcast Cable Communications, LLC. (“Comcast”) and Patent Owner, Promptu Systems Corporation. (“Promptu”) request oral argument in cases IPR2018-00340, IPR2018-00341, IPR2018-00342 (Patent RE44,326), IPR2018-00343, IPR2018-00344 (Patent 7,047,196), IPR2018-00345 (Patent 7,047,196) pursuant to 37 C.F.R. § 42.70.

At our request during a conference call conducted on December 27, 2018, the parties filed a “Joint Stipulation Regarding Oral Argument,” in each proceeding. *See, e.g.*, IPR2018-00340, Paper 43 (Jan. 4, 2019). The parties jointly proposed:

1. Consolidated oral argument for IPR2018-00340 and IPR2018-00341 (involving U.S. Patent 7,260,538) with 60 minutes per side.
2. Consolidated oral argument for IPR2018-00342 and IPR2018-00343 (involving U.S. Patent RE44,326) and IPR2018-00344 and IPR2018-00345 (involving U.S. Patent 7,047,196) with 75 minutes per side.

See, e.g., id. at 2.

The parties’ requests for oral hearing are granted with the following additional instructions. These proceedings have not been consolidated or joined, but entail overlapping issues such that oral argument will be provided in two consolidated hearings on September 28, 2018 – a morning hearing and an afternoon hearing – according to the following schedule.

- a. IPR2018-00340 and IPR2018-00341 at **10:45 AM–12:45 PM Eastern Time on January 28, 2019**, on the ninth floor of the Madison Building East, 600 Dulany Street, Alexandria, VA. Each

IPR2018-00340 (Patent 7,260,538); IPR2018-00341 (Patent 7,260,538)
IPR2018-00342 (Patent RE44,326); IPR2018-00343 (Patent RE44,326)
IPR2018-00344 (Patent 7,047,196); IPR2018-00345 (Patent 7,047,196)

party will have a total of 60 minutes of argument time. The parties may allocate their argument time at their discretion over each of the two cases, not to exceed 60 minutes in total for each party.

Petitioner will first present arguments in IPR2018-00340 and IPR2018-00341 (involving U.S. Patent 7,260,538). Patent Owner then will have the opportunity to respond to Petitioner's arguments. Next, Petitioner may use any time it has reserved for rebuttal to respond to Patent Owner's arguments. Then, Patent Owner may present a brief sur-rebuttal if it has reserved time. The parties may address pending motions to exclude during their argument time.

- b. IPR2018-00342, IPR2018-00343, IPR2018-00344, and IPR2018-00345 at **1:45–4:30 PM Eastern Time on January 28, 2019**, on the ninth floor of the Madison Building East, 600 Dulany Street, Alexandria, VA. Each party will have a total of 75 minutes of argument time. The parties may allocate their argument time at their discretion over each of the two cases, not to exceed 75 minutes in total for each party. Petitioner will first present arguments in IPR2018-00342 and IPR2018-00343 (involving U.S. Patent RE44,326) and IPR2018-00344 and IPR2018-00345 (involving U.S. Patent 7,047,196). Patent Owner then will have the opportunity to respond to Petitioner's arguments. Next, Petitioner may use any time it has reserved for rebuttal to respond to Patent Owner's arguments. Then, Patent Owner may present a

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IPR2018-00342 (Patent RE44,326); IPR2018-00343 (Patent RE44,326)
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brief sur-rebuttal if it has reserved time. The parties may address pending motions to exclude during their argument time. At least one short break will be taken during the afternoon session.

The Board will provide a court reporter for the hearing and the reporter's transcript will constitute the official record of the hearing. The court reporter will create **two separate transcripts**, one for the morning session, and one for the afternoon session.

The hearings will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The parties should not disclose confidential information during the hearings. Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the hearing date and filed no later than the time of the oral argument. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board at least five business days prior to the hearing by emailing them to Trials@uspto.gov.

The parties must file any objections to the demonstrative exhibits with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstrative exhibits 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 schedule a conference if deemed necessary. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. Board of Regents of the*

IPR2018-00340 (Patent 7,260,538); IPR2018-00341 (Patent 7,260,538)
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University of Michigan, IPR2013-00041 (PTAB Jan. 27, 2015) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. The parties are reminded that the demonstrative exhibits presented in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the panel. Because these hearings are being conducted on a large family of six related IPR proceedings, the parties may, but are not required to, provide the panel slides that show how any common issues overlap between proceedings.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party expects that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter. Any special requests for audio-visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication not less than five days before the hearing directed to the above email address.

Weather / potential USPTO shutdown: The parties should monitor OPM's official website for shutdowns of the federal government due to weather emergencies (<https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/current-status/>). The parties also should monitor the USPTO and Board official websites for notices related to the ongoing partial federal government shutdown.

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