

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VIZIO, INC.,  
Petitioner,

v.

NICHIA CORP.,  
Patent Owner.

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Case IPR2018-00386  
Patent No. 9,490,411 B2

Case IPR2018-00437  
Patent No. 9,537,071 B2

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Before SALLY C. MEDLEY, WILLIAM V. SAINDON, and  
NATHAN A. ENGELS, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

ORDER  
*Granting Oral Hearing*  
37 C.F.R. § 42.5

IPR2018-00386 (Patent No. 9,490,411 B2)

IPR2018-00437 (Patent No. 9,537,071 B2)

We instituted *inter partes* review in IPR2018-00386 with a Decision dated June 28, 2018 (Paper 15), and we instituted *inter partes* review in IPR2018-00437 with a Decision dated July 16, 2018 (Paper 17). Scheduling Orders in each proceeding set oral hearings, if requested, for March 5, 2019. IPR2018-00386, Paper 16; IPR2018-00437, Paper 18.

In each proceeding, the parties have requested oral arguments to be combined in a single hearing with 75 minutes allocated to each party.

IPR2018-00368, Paper 29, Paper 30; IPR2018-00437, Paper 40, Paper 41.

The parties' requests are *granted*.

The hearing will be held on March 5, 2019 beginning at 1:00 PM Eastern Time on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. 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 will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

The hearing will proceed consistent with the Office Patent Trial Practice Guide, as updated. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756 (Aug. 14, 2012); Trial Practice Guide Update, 83 Fed. Reg. 39,989 (Aug. 13, 2018) (explaining that the revised sections of the Trial Practice Guide are available at <https://go.usa.gov/xU7GP>). Petitioner bears the ultimate burden of proof in these proceedings, and Petitioner will therefore open the hearing by presenting its case regarding the challenged claims and Patent Owner's proposed amended claims. Petitioner may reserve some (but not more than half) of its argument time for a rebuttal to any arguments presented by the Patent Owner. After Petitioner's initial presentation, Patent Owner will be given an opportunity to present

IPR2018-00386 (Patent No. 9,490,411 B2)

IPR2018-00437 (Patent No. 9,537,071 B2)

arguments and also may reserve some of its argument time. Thereafter, Petitioner may use any reserved time to reply to Patent Owner's presentation. Finally, if Patent Owner reserved some of its time, Patent Owner may request an opportunity to present a brief sur-rebuttal.

Both parties are cautioned that oral argument can only address issues raised in the filed papers. *See* 37 C.F.R. § 42.70 (“A party may request oral argument *on an issue raised in a paper* at a time set by the Board”) (emphasis added). The parties are also reminded that, under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the hearing date. The parties must file the demonstratives, and any objections to the demonstratives, with the Board at least two business days before the hearing. 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 schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 (PTAB January 27, 2014), for guidance regarding the appropriate content of demonstrative exhibits.

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.

IPR2018-00386 (Patent No. 9,490,411 B2)

IPR2018-00437 (Patent No. 9,537,071 B2)

Any requests for special audio/visual equipment should be directed to [Trials@uspto.gov](mailto: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.

IPR2018-00386 (Patent No. 9,490,411 B2)

IPR2018-00437 (Patent No. 9,537,071 B2)

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