

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LECTROSONICS, INC.,
Petitioner,

v.

ZAXCOM, INC.,
Patent Owner.

Case IPR2018-00972
Patent 9,336,307 B2

Before SCOTT R. BOALICK, *Chief Administrative Patent Judge*,
KALYAN K. DESHPANDE, and LYNNE E. PETTIGREW, *Administrative
Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

The Scheduling Order (Paper 12) provides that an oral hearing is scheduled for August 5, 2019, if requested by the parties. Patent Owner requests oral hearing with each party allocated thirty (30) minutes to present arguments directed to the instituted grounds of unpatentability. Paper 34. Petitioner requests oral hearing with each party allocated sixty (60) minutes to present arguments directed to the instituted grounds and Patent Owner's Motion to Amend. Paper 32 (citing Paper 17). Petitioner further requests that "two attorneys at Petitioner's counsel's table be allowed to use computers at the hearing." *Id.* Patent Owner and Petitioner's requests for an oral hearing are *granted*.

The oral hearing for this proceeding will be held on **August 5, 2019** on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. The hearing will commence at **2:00 PM** Eastern Time and it will be open to the public for in-person attendance. In-person attendance 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 three (3) business days in advance of the hearing to discuss the matter.

Each party will have sixty (60) minutes of total time to present arguments. Petitioner bears the ultimate burden of proof that the claims at issue are unpatentable. Therefore, Petitioner will proceed first to present its arguments. Thereafter, Patent Owner will respond. Petitioner and Patent Owner may reserve time, of no more than twenty (20) minutes, in their initial presentation for rebuttal and sur-rebuttal, respectively. After Patent Owner's response, Petitioner may make use of reserved time or any remaining allocated time responding to Patent Owner. After Petitioner's rebuttal, Patent Owner may make use of reserved time or any remaining allocated time responding to Petitioner's rebuttal.

Petitioner and Patent Owner may present arguments directed to both the instituted grounds identified in the Decision to Institute (*see* Paper 11) and Patent Owner's contingent Motion to Amend (Paper 17). Petitioner bears the ultimate burden of proof, and, therefore, Petitioner may present arguments directed to both the instituted grounds and Patent Owner's contingent Motion to Amend in its initial presentation, and during rebuttal. Patent Owner similarly may present arguments directed to both the instituted grounds and its contingent Motion to Amend in its initial presentation, and during sur-rebuttal.

Petitioner's request that "two attorneys at Petitioner's counsel's table be allowed to use computers at the hearing" is *granted*. Paper 32.

The Board will provide a court reporter for the hearing and the court reporter's transcript will constitute the official record of the hearing.

Pursuant to 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven (7) business days before the hearing. The demonstrative exhibits in this case are not evidence and are intended only to assist the parties in presenting their oral argument to the Board. The parties shall serve objections to each other at least four (4) business days before the hearing. The parties shall meet and confer in good faith in an attempt to resolve objections. For any unresolved objections, the parties must file the objections to the demonstratives with the Board at least three (3) business days before the hearing. Any objection to the 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 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The parties shall file demonstrative exhibits into the records of these proceedings at least three (3) business days prior to the hearing.

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 as long as that counsel is present in person. 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 (2) business days prior to the oral hearing to discuss the matter.

A party may request remote video attendance for one or more of its other attendees to view the hearing from any USPTO location. The available locations include the Texas Regional Office in Dallas, Texas; the Rocky Mountain Regional Office in Denver, Colorado; the Elijah J. McCoy Midwest Regional Office in Detroit, Michigan; and the Silicon Valley Office in San Jose, CA. To request remote video viewing, a party must send an email message to Trials@uspto.gov ten (10) business days prior to the hearing, indicating the requested location and the number planning to view the hearing from the remote location. The Board will notify the parties if the request for remote video viewing is granted. Note that it may not be possible to grant the request due to the availability of resources.

Any special requests for audio-visual equipment should be directed to Trials@uspto.gov. A party may also indicate any other special request related to appearing at an in-person oral hearing, such as a request to accommodate physical needs that limit mobility or visual or hearing impairments, and indicate how the PTAB may accommodate the special request. All special requests must be

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presented in a separate communication not less than five (5) days before the hearing.

PETITIONER:

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