

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC.,
Petitioner,

v.

WISCONSIN ARCHERY PRODUCTS, LLC,
Patent Owner.

Case IPR2018-01137
Patent 8,316,551 B2

Before BARBARA A. PARVIS, STACEY G. WHITE, and
MONICA S. ULLAGADDI, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

On December 11, 2018, we instituted *inter partes* review in the instant proceeding and contemporaneously issued a Scheduling Order setting the date for oral argument to September 4, 2019. Papers 11, 12. On April 17, 2019, we exercised our discretion to reset the date for oral argument to September 6, 2019. Paper 23. Patent Owner and Petitioner filed requests for oral argument pursuant to 37 C.F.R. § 42.70(a). Papers 26, 27. Petitioner requests that oral argument be held at the USPTO main office in Alexandria, Virginia. Paper 27. Patent Owner does not request a particular location. Paper 26. The parties' requests are *granted*.

Oral argument will commence at 1:00 PM Eastern Time, on September 6, 2019, and will be conducted at the USPTO Headquarters, Ninth Floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia, 22314. Each side will receive 60 minutes of presentation time (including any rebuttal).

The hearing will be open to the public for in-person attendance, which will be accommodated on a first-come, first-served basis. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Petitioner will open the hearing by presenting its case regarding the challenged claims. Patent Owner then will respond to Petitioner's presentation. Petitioner may reserve rebuttal time (of no more than half their total presentation time) to reply to Patent Owner's arguments. Patent Owner may reserve sur-rebuttal time (of no more than half its total presentation time) to respond to Petitioner's rebuttal. *See Trial Practice Guide Update*, 20 (Aug. 2018), available at <https://go.usa.gov/xU7GP>.

A pre-hearing conference call will be held upon request. The request must be made no later than **August 28, 2019**. Prior to making such a request, Petitioner and Patent Owner shall meet and confer and, when possible, send a joint request to the Board with an agreed upon set of limited issues for discussion. A request for a pre-hearing conference may be made by email to Trials@uspto.gov, and shall include a list of issues to be discussed during the call and proposed times for the call, which should be no later than three (3) business days prior to the hearing.

At least one member of the panel will be attending the hearing electronically from a remote location and will not be able to view the projection screen in the hearing room. Thus, if a demonstrative exhibit is not made available in advance or visible to the judge(s) presiding over the hearing remotely, that demonstrative exhibit will not be helpful. Each 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 and for the benefit of the judge(s) presiding over the hearing remotely. A hard copy of the demonstratives, if used, should be provided to the court reporter at the hearing. Also, Petitioner and Patent Owner are reminded that, at the oral argument, they "may rely upon evidence that has been previously submitted in the proceeding and may only present argument relied upon in the papers previously submitted." *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). "No new evidence or arguments may be presented at the oral argument." *Id.* Petitioner and Patent Owner are directed to refrain from disclosing any confidential information during the hearing or including any confidential information in a demonstrative exhibit.

If either Petitioner or Patent Owner has any concerns about disclosing confidential information, they must contact the Board at least three (3) business days before the hearing to request a conference call to discuss the matter.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served on the opposing party or parties seven (7) business days prior to the hearing. Demonstrative exhibits used at the hearing are aids to oral argument and not evidence, and should be clearly marked as such. For example, each slide of a demonstrative exhibit may be marked with the words “DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. *Trial Practice Guide Update*, 21.

The Board expects that Petitioner and Patent Owner will meet and confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved, Petitioner and Patent Owner are directed to request a conference call with the Board no later than three (3) business days prior to the hearing to resolve any dispute over the propriety of demonstrative exhibits. Petitioner and Patent Owner are responsible for requesting such a conference sufficiently in advance of the hearing to accommodate this requirement. Any objection to demonstrative exhibits that is not presented timely will be considered waived. The Board asks Petitioner and Patent Owner to confine demonstrative exhibit objections to those identifying egregious violations that are prejudicial to the administration of justice. Petitioner and Patent Owner may refer to *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033 (PTAB October 23, 2013) (Paper 118), and *St. Jude Medical, Cardiology Div., Inc. v. The Board of Regents of the University of Michigan*, IPR2013-00041

(PTAB Jan. 27, 2014) (Paper 65) regarding the appropriate content of demonstrative exhibits. Petitioner and Patent Owner are directed to *file* their demonstrative exhibits, marked as noted above, in the records at least three (3) business days prior to the hearing.

The Board expects lead counsel for each side to be present in person at the oral hearing. Any counsel of record, however, may present argument as long as that counsel is present in person. If either side 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 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 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 special requests 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. Any special

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