

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS AMERICA, INC.,  
Petitioner,

v.

UNILOC LUXEMBOURG, S.A.,  
Patent Owner.

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IPR2018-01664  
Patent 8,872,646 B2

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Before JENNIFER S. BISK, CHARLES J. BOUDREAU, and  
GARTH D. BAER, *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

ORDER  
*Granting Requests for Oral Argument*  
37 C.F.R. § 42.70

The Scheduling Order for the above-identified proceeding provided that an oral hearing would be conducted on December 12, 2019, if a hearing is requested by the parties and granted by the Board. Paper 8. The parties requested oral hearing pursuant to 37 C.F.R. § 42.70. Paper 15, 16. The Parties' requests for oral hearing is *granted*.

**Please note the time and location of the hearing.** The hearing will commence at 2:00 PM on December 12, 2019, 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. If the parties have any concern about disclosing confidential information, they are to contact the Board at least ten (10) days in advance of the hearing to discuss the matter.

Each party will have forty five (45) minutes of total oral argument time. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in these proceedings are unpatentable by a preponderance of the evidence. 35 U.S.C. § 316(e). Therefore, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. After Petitioner's presentation, Patent Owner will respond to Petitioner's argument and present the issues for which it bears the ultimate burden. Next, Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. Lastly, Patent Owner may reserve sur-rebuttal time; however, Patent Owner's sur-rebuttal must be limited in scope to the issues Petitioner raises during its rebuttal time. The parties may also address any pending motions during their respective presentations.

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. Furthermore, under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served **at least seven (7) business days** before the hearing date. The parties also shall provide a courtesy copy of any demonstrative exhibits to the Board **at least five (5) business days** prior to the hearing by emailing them to [Trials@uspto.gov](mailto:Trials@uspto.gov). Demonstrative exhibits shall not be filed unless a party receives prior authorization from the Board.<sup>1</sup>

The parties must arrange a conference call with the Board to discuss any objections to the demonstratives **at least two (2) business days** before the hearing. Any objection to demonstrative exhibits that is not raised during the conference call will be considered waived. The Board may 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*, Case IPR2013-00041 (PTAB Jan. 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits. No live testimony from any witness will be taken at the oral argument.

If desired, a request for a pre-hearing conference must be made by December 9, 2019. To request such a conference, an email should be sent to [Trials@uspto.gov](mailto:Trials@uspto.gov) including several dates and times of availability for one or both parties, as appropriate, that are generally **no later than three (3) business days** prior to the oral hearing.

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<sup>1</sup> We exercise our authority under 37 C.F.R. § 42.5(b) to waive or suspend the requirement of 37 C.F.R. § 42.70(b) that “[d]emonstrative exhibits must be . . . filed no later than the time of the oral argument.”

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, in whole or in part, 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 notify the Board via email **no later than two (2) business days** prior to the oral hearing.

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](mailto:Trials@uspto.gov) **no later than 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 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](mailto: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 Board may accommodate the special request. Any special requests must be presented in a separate communication **not less than seven (7) business days** before the hearing.

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