

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

TELA INNOVATIONS, INC.,
Patent Owner.

IPR2019-01520, IPR2019-01521, IPR2019-01522 (Patent 10,186,523 B2)
IPR2019-01636 (Patent 10,141,334 B2)
IPR2019-01637 (Patent 10,141,335 B2)¹

Before JO-ANNE M. KOKOSKI, KRISTINA M. KALAN, and
WESLEY B. DERRICK, *Administrative Patent Judges*.

KALAN, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

¹ Because this Order addresses issues that are the same in each of the above-referenced proceedings, we issue one Order to be entered in each proceeding. The parties are not authorized to use this caption unless later permitted.

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Intel Corporation (“Petitioner”) requests an oral hearing for each of the above-captioned proceedings, pursuant to 37 C.F.R. § 42.70. Paper 51.² Tela Innovations, Inc. (“Patent Owner”) also filed requests for an oral hearing. Paper 52. Petitioner’s and Patent Owner’s requests are *granted*.

There will be one consolidated hearing consisting of arguments for each of the five proceedings captioned above. For the consolidated hearing, we allocate each party 90 minutes of total argument time.

Oral arguments will commence at 1:00 p.m. Eastern Time on December 9, 2020, by video. The parties are directed to contact the Board at least ten days in advance of the hearing if there are any concerns about disclosing confidential information. The Board will provide a court reporter for the hearing, and the reporter’s transcript will constitute the official record of the hearing.

If at any time during the proceeding, you encounter technical or other difficulties that fundamentally undermine your ability to adequately represent your client, please let the panel know immediately, and adjustments will be made.³

To facilitate planning, each party must contact PTAB Hearings at PTABHearingsTrials@uspto.gov five business days prior to the oral hearing date to receive video set-up information. As a reminder, all arrangements and the expenses involved with appearing by video, such as the selection of

² We refer to the record in IPR2019-01520. Similar papers were filed in each of the above-captioned proceedings.

³ For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

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the facility to be used from which a party will attend by video, must be borne by that party. If a video connection cannot be established, the parties will be provided with dial-in connection information, and the oral hearing will be conducted telephonically.

If one or both parties would prefer to participate in the oral hearing telephonically, they should notify PTAB Hearings at the above email address five business days prior to the hearing to receive dial-in connection information.

Petitioner bears the ultimate burden of proof that the claims at issue in this review are unpatentable. Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Patent Owner will then respond to Petitioner's arguments. Next, Petitioner may use any time it has reserved for rebuttal, but no more than half their total presentation time, to respond to Patent Owner's arguments. Lastly, Patent Owner may use any time it has reserved for a brief sur-rebuttal to respond to Petitioner's rebuttal arguments. No other arguments will be heard.

Per the Office Patent Trial Practice Guide, either party may request a pre-hearing conference by November 25, 2020, as set forth in our Scheduling Order. Paper 15, 10; *see* Consolidated Trial Practice Guide ("Trial Practice Guide"), 84 Fed. Reg. 64,280 (Nov. 21, 2019).⁴ To request such a conference, an email should be sent to Trials@uspto.gov including several dates and times of availability for one or both parties, as appropriate,

⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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that are generally no later than three business days prior to the oral hearing. Please refer to the Guide for more information on the pre-hearing conference.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least seven business days before the hearing. Thus, the parties shall serve on opposing counsel demonstrative exhibits no later than Monday, November 30, 2020. Notwithstanding 37 C.F.R. § 42.70(b), demonstratives should be filed as an exhibit, and contemporaneously emailed to PTABHearingsTrials@uspto.gov, no later than Wednesday, December 2, 2020, to facilitate the panel's preparation. The parties should consider the information regarding demonstrative materials discussed in the Trial Practice Guide.

Demonstrative exhibits used at the oral 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. Demonstrative exhibits cannot be used to advance arguments or introduce evidence not previously presented in the record. *See Dell Inc. v. Accelaron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) (noting that the “Board was obligated to dismiss [the petitioner’s] untimely argument . . . raised for the first time during 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 Jan. 27, 2014) (Paper 65), regarding the appropriate content of demonstrative exhibits. The Board expects that the parties will meet and

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confer in good faith to resolve any objections to demonstrative exhibits, but if such objections cannot be resolved the parties may file any objections to demonstratives with the Board *at least two business days* before the hearing. The objections should identify with particularity which portions of the demonstrative exhibits are subject to objection, include a copy of the objected-to portions, and include a one-sentence statement of the reason for each objection. No argument or further explanation is permitted. The Board will consider any objections and schedule a conference call if deemed necessary. Otherwise, the Board will reserve ruling on the objections. Any objection to demonstrative exhibits that is not timely presented will be considered waived.

The Board generally expects lead counsel for each party to be present by video at the oral hearing. Any counsel of record may present the party's argument as long as that counsel is present by video.

Any special requests for audio-visual equipment should be directed to PTABHearings@uspto.gov. A party may also indicate any special requests related to appearing at a video oral hearing, such as a request to accommodate visual or hearing impairments, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication not less than five business days before the hearing.

Please unmute yourself only when speaking. During the oral hearing, the parties are advised to identify clearly and specifically each demonstrative referenced (e.g., by slide or screen number) to ensure the clarity and accuracy of the court reporter's transcript. The panel will have access to all

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