

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASETEK DANMARK A/S,
Petitioner,

v.

COOLIT SYSTEMS, INC.,
Patent Owner.

IPR2020-00747 (Patent 9,057,567 B2)
IPR2020-00825 (Patent 10,274,266 B2)¹

Before FRANCES L. IPPOLITO, SCOTT C. MOORE, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

ORDER
Setting Oral Argument
37 C.F.R. § 42.70

¹ This is a combined Order to be filed in each case. These cases have not been consolidated, and the parties are not authorized to use this filing style in subsequent papers.

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I. ORAL ARGUMENT

A. Time and Format

The parties have both requested oral arguments in the above proceedings, with Petitioner requesting 60 minutes of oral argument per side per proceeding, and Patent Owner requesting 30 minutes per side in IPR2020-00747, and 45 minutes per side in IPR2020-00825. IPR2020-00747, Papers 27, 29; IPR2020-00825, Papers 31, 33.

Oral arguments will commence at **11:00 am Eastern Time on June 22, 2021**, by video.² The Board will provide a court reporter for the hearings, and the reporter's transcript will constitute the official record of the hearings.

We note that these proceedings involve related patents, and that there is substantial overlap in the claimed subject matter and asserted prior art references. Accordingly, each party will be allotted 60 minutes of oral argument time in IPR2020-00747, which will be argued first, and each party will be allocated 30 minutes of oral argument time in IPR2020-00825.

For each proceeding, Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Thereafter, Patent Owner will respond to Petitioner's argument. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. In accordance with the Consolidated Trial Practice Guide³

² If there are any concerns about disclosing confidential information, the parties must contact the Board at Trials@uspto.gov at least ten business days before the hearing date.

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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(“CTPG”), issued in November 2019, Patent Owner may request to reserve time for a brief sur-rebuttal. *See* CTPG 83.

B. Demonstratives

As set forth in 37 C.F.R. § 42.70(b), demonstratives for each proceeding shall be served on opposing counsel at least seven business days before the hearing date for that proceeding and filed no later than five business days before the hearing.

Demonstratives are not a mechanism for making new arguments. Demonstratives also are not evidence, and will not be relied upon as evidence. Rather, demonstratives are visual aids to a party’s oral presentation regarding arguments and evidence previously presented and discussed in the papers. Accordingly, demonstratives shall be clearly marked with the words “DEMONSTRATIVE EXHIBIT—NOT EVIDENCE” in the footer. *See Dell Inc. v. Acceleron, LLC*, 884 F.3d 1364, 1369 (Fed. Cir. 2018) (holding that the Board is obligated under its own regulations to dismiss untimely argument “raised for the first time during oral argument”). “[N]o new evidence may be presented at the oral argument.” CTPG 85; *see also St. Jude Med., Cardiology Div., Inc. v. The Bd. of Regents of the Univ. of Mich.*, IPR2013-00041, Paper 65, 2–3 (PTAB Jan. 27, 2014) (explaining that “new” evidence includes evidence already of record but not previously discussed in any paper of record).

Furthermore, because of the strict prohibition against the presentation of new evidence or arguments at a hearing, each demonstrative shall cite to a paper or papers in the record in order to allow the Board to easily ascertain whether a given demonstrative contains “new” argument or evidence or, instead, contains only those that were developed in the existing record.

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Finally, the parties are reminded that each presenter should identify clearly and specifically each paper (e.g., by slide or screen number for a demonstrative) referenced during the hearing to ensure the clarity and accuracy of the court reporter's transcript and for the benefit of all participants appearing electronically.

C. Presenting Counsel

The Board expects lead counsel for each party to be present at each of the hearings. *See* CTPG 11. Any counsel of record may present the party's argument as long as that counsel is present by video.

D. Video Hearing Details⁴

To facilitate planning, each party must contact the Board at PTABHearings@uspto.gov at least five business days prior to the 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 the facility 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 hearing will be conducted telephonically.

If one or both parties would prefer to participate in any of the hearings telephonically, they must contact the Board at PTABHearings@uspto.gov at

⁴ USPTO facilities remain closed to the public. If and when conditions allow in-person hearing attendance, the parties will be notified and will be permitted to submit a joint request to convert the current video hearing to an in-person hearing. The requests will be considered on a case-by-case basis, and subject to resource availability.

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least five business days prior to the hearing date to receive dial-in connection information.

Counsel should unmute only when speaking. In addition, the parties are advised to identify themselves each time they speak. Furthermore, the remote nature of the hearing may also result in an audio lag, and thus the parties are advised to observe a pause prior to speaking, so as to avoid speaking over others.

If at any time during the hearing, counsel encounters technical or other difficulties that fundamentally undermine counsel's ability to adequately represent its client, please let the panel know immediately, and adjustments will be made.⁵

E. Remote Attendance Requests

Members of the public may request to listen to this hearing. If resources are available, the Board generally expects to grant such requests. If either party objects to the Board granting such requests, for example, because confidential information may be discussed, the party must notify the Board at PTABHearings@uspto.gov at least ten business days prior to the hearing date.

F. Audio/Visual Equipment Requests

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 hearing, such as a request to accommodate visual or hearing impairments, and indicate how the PTAB may

⁵ For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

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