

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

C&D ZODIAC, INC.,
Petitioner,

v.

B/E AEROSPACE, INC.,
Patent Owner.

Case IPR2017-01275 (Patent 9,073,641 B2)
Case IPR2017-01276 (Patent 9,440,742 B2)
Case PGR2017-00019 (Patent D764,031 S)¹

Before JENNIFER S. BISK, SCOTT A. DANIELS, and
RICHARD H. MARSCHALL, *Administrative Patent Judges.*

DANIELS, *Administrative Patent Judge.*

ORDER

Request for Oral Argument and Amended Scheduling Order
37 C.F.R. §§ 42.5, 42.70

¹ This Order applies to each of the captioned proceedings and will be entered into the record of each case.

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AMENDED SCHEDULING ORDER
NEW DUE DATE 7

Further to our initial Scheduling Order, mailed October 31, 2017, (Paper 13), and the parties Request for Oral Argument in each of the above noted proceedings, this Order changes the oral argument date, Due Date 7, previously, July 26, 2018, to the new date and time of, August 3, 2018, 1:00pm Eastern Time, in Alexandria, Virginia. No other changes to the Scheduling Order have been made.

NEW DUE DATE 7August 3, 2018

The original, and now amended, Scheduling Order for these cases sets the date for oral hearing as August 3, 2018, if a hearing is requested by the parties and granted by the panel. *See e.g.*, IPR2017-01275, Paper 13. Both parties have requested oral hearing pursuant to 37 C.F.R. § 42.70. *See, id.* Papers 29, 31. The requests are *granted*.

Oral arguments will commence at 1:00 pm Eastern Time on August 3, 2018, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. Each party will have 90 minutes total time to present arguments. Petitioner bears the ultimate burden of proof that Patent Owner's claims at issue in this review are unpatentable. 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. Petitioner

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may reserve rebuttal time to respond to arguments presented by Patent Owner.

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.

Under 37 C.F.R. § 42.70(b), the parties shall serve any demonstrative exhibits upon each other at least five business days prior to the hearing. The parties also shall provide the demonstrative exhibits to the Board at least five business days prior to the hearing by emailing them to Trials@uspto.gov. The parties shall *not* file any demonstrative exhibits in this proceeding without prior authorization from the Board.

The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented 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 Jan. 27, 2014) (Paper 65) and *CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, (PTAB Oct. 23, 2013) (Paper 118), for guidance regarding the appropriate content of demonstrative exhibits.

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We expect 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. 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 panel no later than two business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to Trials@uspto.gov. Requests for special equipment will not be honored unless presented in a separate communication directed to the above email address not less than five days before the hearing.

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