

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOLVAY USA INC.,
Petitioner,

v.

WORLDSOURCE ENTERPRISES, LLC, ECO AGRO RESOURCES LLC,
and ECO WORLD GROUP LLC
Patent Owner.

PGR2019-00046
Patent 10,221,108 B2

Before KRISTINA M. KALAN, JEFFREY W. ABRAHAM, and
SHELDON M. McGEE, *Administrative Patent Judges*.

McGEE, *Administrative Patent Judge*.

ORDER

Trial Hearing
37 C.F.R. § 42.70

We instituted trial in this proceeding on August 13, 2019. Paper 7. A Scheduling Order set the oral hearing for May 14, 2020. Paper 8, 7. Both parties have requested oral hearing. Papers 30, 32. The requests are granted according to the terms set forth below.

Oral arguments will commence at 1:00 PM Eastern Time on May 14, 2020, by video. The parties are directed to contact the Board at least 10 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.¹

To facilitate planning, each party must contact PTAB Hearings at (571) 272-9797 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 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 telephone

¹ For example, if a party is experiencing poor video quality, the Board may provide alternate dial-in information.

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

Either party may request a pre-hearing telephone conference. Patent Trial and Appeal Board Consolidated Trial Practice Guide, November 2019 Update, p. 82 (Trial Practice Guide).² Requests for a pre-hearing conference must be made by **May 5, 2020**. Prior to making a request, the parties should meet and confer and send a joint request to the Board with an agreed upon set of limited issues for discussion in the pre-hearing conference. To request a pre-hearing telephone conference, a joint email request should be sent to Trials@uspto.gov, including several dates and times of availability for both parties. If the parties are unable to agree on the issues to be addressed at the pre-hearing conference, the joint request shall specify which issues are disputed and provide a brief statement (not to exceed one sentence) of the opposing party's objection.

The panel may, at its discretion, indicate certain issues during the pre-hearing conference that it wishes parties to emphasize at the oral hearing. Although the parties and the panel may discuss issues for the oral hearing at the pre-hearing conference, the issues discussed at the pre-hearing conference do not limit the scope of the oral hearing. Instead, the parties remain free to address at the oral hearing any issue properly raised during the trial, and the panel may ask questions on issues other than those identified at the pre-hearing conference.

The pre-hearing conference is not required, and absent a request, no call will be held.

² Available at <https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf>.

Allotted Argument Time

Each party will have sixty (60) minutes of total argument time to present its arguments in this proceeding. Petitioner will proceed first to present its case. Petitioner may reserve some, but not more than half, of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's case and may reserve some, but no more than half, of its argument time for sur-rebuttal. Next, Petitioner may use any time it has reserved for rebuttal to respond to Patent Owner's specific arguments presented at the hearing. Patent Owner may then use any reserved time for sur-rebuttal to respond to Petitioner's arguments.³ The parties are reminded that arguments made during rebuttal and sur-rebuttal periods must be responsive to arguments the opposing party made in its immediately preceding presentation. The parties also are reminded that during the hearing, the parties "may only present arguments relied upon in the papers previously submitted." Trial Practice Guide November 2019 Update, p. 86.

Demonstratives

Under 37 C.F.R. § 42.70(b), any demonstrative exhibits must be served on opposing counsel at least seven (7) business days before the hearing. 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) for guidance regarding the appropriate content of demonstrative exhibits. The parties shall file demonstrative

³ See Trial Practice Guide November 2019 Update, p. 83 (providing that the "Board may also permit patent owners the opportunity to present a brief sur-rebuttal if requested").

exhibits with the Board at least two business days prior to the hearing.

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

We note that demonstrative exhibits are only an aid to oral argument and are not evidence of record in the proceeding, and should be clearly marked as such. For example, each slide may be marked with the words “DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. The parties also are reminded that the presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) or page of the record referenced during the hearing to ensure the clarity and accuracy of the reporter’s transcript.

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

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