

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MASIMO CORPORATION,
Petitioner,

v.

APPLE INC.,
Patent Owner.

Case IPR2023-00664
Patent 11,106,352

PATENT OWNER'S PROVISIONAL REQUEST FOR ORAL ARGUMENT

Petitioner submitted a revised Motion to Amend on May 1, 2024.

According to the Scheduling Order (Paper 9), “[i]f Patent Owner files a revised motion to amend, the Board shall enter a revised scheduling order setting the briefing schedule for that revised motion and adjusting other due dates as needed.” Paper 9 at 5. As of the date of this request, no revised schedule has been issued.

It is Patent Owner’s understanding that the oral hearing schedule¹ is likely to change based on expected revisions to the existing case schedule. As of the date of submission of this request, the issues in these proceedings are also not fully mature, as Petitioner has yet to file a response to Patent Owner’s revised Motion to Amend. While Patent Owner would be better positioned to make this request after the revised schedule is issued and the issues of this proceeding are fully developed, to comply with the Scheduling Order and pursuant to 37 C.F.R. § 42.70(a), Patent Owner hereby provisionally submits this Request for Oral Argument on all of the instituted grounds of unpatentability of 1–24 of U.S. Patent No. 11,106,352. During the hearing, Patent Owner requests (without waiving consideration of any issue not listed below) to address at least the following issues:

- 1) Any issue raised during these proceedings by the Board, Petitioner or Patent Owner;

¹ The Oral Hearing is currently scheduled for June 20, 2024. Paper 9 at 11.

- 2) Rebuttal to Petitioner's remarks on record or during the oral hearing; and
- 3) Any additional clarification the Board may seek.

Patent Owner requests no more than two hours of total oral argument time, with Petitioner and Patent Owner having 60 minutes for their respective presentations.

As noted above, this request is provisional. **Patent Owner requests the Board for authorization to revise its oral hearing request after Petitioner files its sur-reply**, the due date of which is likely to be modified in the expected revised case schedule. Good cause exists for this request because Patent Owner will be in a better position to submit an oral hearing request once the revised due date of the oral hearing is determined and the issues that will have to be addressed at the hearing become clearer after submission of the Petitioner's sur-reply.

Respectfully submitted,

Date: May 8, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on May 8, 2024, a complete and entire copy of this Patent Owner's Request for Oral Argument and its exhibits were provided via email, to the Petitioners by serving the correspondence addresses of record as follows:

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