

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PROVISUR TECHNOLOGIES, INC.,
Petitioner,

v.

TEXTOR MASCHINENBAUGMBH,
Patent Owner.

IPR2024-00224
Patent 9,457,487 B2

Before JEREMY M. PLENZLER, CARL M. DeFRANCO, and
JASON W. MELVIN, *Administrative Patent Judges*.

DeFRANCO, *Administrative Patent Judge*.

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

I. ORAL HEARING

A. Time and Format

The oral hearing will commence at 1:00 PM ET on January 15, 2025. The hearing will be held by video conference, as requested by the parties. *See* Papers 46, 47. The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

Each party will have a total of forty-five (45) minutes to present its case. Petitioner will open the hearing with its case, followed by Patent Owner's response. Petitioner and Patent Owner may each reserve rebuttal time. *See* Consolidated Trial Practice Guide¹ ("TPG") at 83 (November 2019).

If either party desires a pre-hearing conference on any issue,² the parties should jointly contact the Board at Trials@uspto.gov at least five (5) business days before the hearing. *See id.* at 82. "The purpose of the pre-hearing conference is to afford the parties the opportunity to preview (but not argue) the issues to be discussed at the hearing, and to seek the Board's guidance as to particular issues that the panel would like addressed by the parties." *Id.*

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

² The parties have previously corresponded with the Board and indicated that confidential information will not be disclosed at the hearing unless the Board has specific questions that might require such disclosure. The Board will notify the parties prior to the hearing if that is the case.

B. Demonstratives

Per 37 C.F.R. § 42.70(b), demonstratives must be served on opposing counsel at least seven (7) business days before the hearing and be filed at least three (3) business days before the hearing.³

Demonstratives are not evidence and should not include new arguments. Rather, demonstratives are visual aids to a party's arguments and evidence previously presented and discussed in the papers. Accordingly, demonstratives shall be clearly marked with the words "DEMONSTRATIVE EXHIBIT–NOT EVIDENCE." Furthermore, the Board strongly recommends that demonstratives include citations to a papers in the record. This allows the Board to easily ascertain whether a given demonstrative contains "new" argument or evidence.

Due to the nature of the Board's consideration of demonstratives and the opportunity for the parties to reach agreement without involving the Board, any objections to demonstratives are not likely to be sustained. Nonetheless, if a party objects to the propriety of any demonstrative, the parties shall meet and confer in good faith to resolve any such objections. If such objections cannot be resolved, the parties may file any such objections with the Board no later three (3) days before the hearing. The objections shall identify with particularity which portions of the demonstratives are subject to objection 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 may reserve ruling on the objections. Any

³ The parties may stipulate to an alternative schedule for serving demonstratives, but any demonstratives should be filed at least three (3) business days before the hearing.

objection to demonstratives that is not timely presented will be considered waived.

C. Video Hearing Details

To facilitate planning, each party must contact the Board at PTABHearings@uspto.gov at least five (5) 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.

Counsel should unmute only when speaking. The panel will have access to all papers filed with the Board, including demonstratives. During the hearing, the parties are reminded to identify clearly and specifically each paper referenced (e.g., by slide or screen number for a demonstrative) to ensure the clarity and accuracy of the court reporter's transcript and for the benefit of all participants appearing electronically. 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.

D. Presenting Counsel

The Board generally expects lead counsel for each party to be present at the hearing via video. *See* TPG 11. Any counsel of record may present the party's argument so long as the counsel is present by video.

E. Remote Attendance Requests

Members of the public may request to listen to and/or view this hearing. 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 (10) business days prior to the hearing date.

F. Legal Experience and Advancement Program (LEAP)

The Board has established the "Legal Experience and Advancement Program," or "LEAP," to encourage advocates with less legal experience to argue before the Board to develop their skills. The parties are encouraged to participate in the Board's LEAP program. Either party may request that a qualifying LEAP practitioner participate in the program and conduct at least a portion of the party's oral argument. The Board will grant up to fifteen (15) minutes of additional argument time to that party. A party should submit a LEAP Practitioner Request for Oral Hearing Participation and Verification Form request at least five (5) business days before the oral hearing, by email to the Board at PTABHearings@uspto.gov.⁴

⁴ Information about the LEAP program and the combined LEAP Practitioner Request for Oral Hearing Participation and Verification Form can be found at www.uspto.gov/leap.

G. 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 the video hearing, such as a request to accommodate visual or hearing impairments, and indicate how the Board may accommodate the special request. Any special requests must be presented in a separate communication at least five (5) business days before the hearing date.

II. ORDER

Accordingly, it is

ORDERED that the parties' request for oral hearing is *granted* subject to the conditions set forth in this Order; and

FURTHER ORDERED that the oral hearing shall take place by video conference beginning at 1:00 PM ET on January 15, 2025, and proceed in the manner set forth herein.

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