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571-272-7822

Paper 41
Date: July 29, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEXAS INSTRUMENTS INC.
and NXP USA, INC.,
Petitioners,

v.

PARKERVISION, INC.,
Patent Owner.

IPR2024-00936[1]
Patent 9,118,528 B2

Before MICHAEL R. ZECHER, BART A. GERSTENBLITH, and IFTIKHAR AHMED, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

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

[1] NXP USA, Inc., who filed a petition in IPR2024-01068, is joined as petitioner in this proceeding.

I. ORAL ARGUMENT

Each of the parties in the above-captioned proceeding filed a request for oral argument, pursuant to 37 C.F.R. § 42.70(a). Papers 36 (Petitioner's request), 37 (Patent Owner's request). The parties' requests for oral argument are *granted*.

A. Time and Format

Oral argument will commence at **1:00PM Eastern Time** on **September 10, 2025**, in-person at the U.S. Patent and Trademark Office (**"**USPTO") headquarters[2] in Alexandria, Virginia.[3] The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.[4]

Petitioner requests 60 minutes of argument time for each side, whereas Patent Owner requests 45 minutes for each side. *See* Paper 36, 1; Paper 37, 1. Each party will have **60 minutes** of total time to present arguments. Petitioner will proceed first to present its case with regard to the challenged claims and grounds set forth in the Petition. Petitioner may reserve time for rebuttal. Thereafter, Patent Owner may respond to Petitioner's argument and may reserve time for sur-rebuttal. Petitioner may

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[2] Visitors are required to present state-issued identification that is REAL ID-compliant. Alternatively, visitors can present another form of government-issued photo identification listed on the Department of Homeland Security Transportation Security Administration's Acceptable IDs webpage available at https://www.tsa.gov/travel/security-screening/identification.

[3] If a party is no longer able to appear in-person for the hearing, the party must contact PTABHearings@uspto.gov as soon as possible.

[4] If there are any concerns about disclosing confidential information, the parties must contact the Board at Trials@uspto.gov at least **ten (10) business days** before the hearing date.

then present its rebuttal followed by Patent Owner's sur-rebuttal. *See* Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019), at 83 ("CTPG").[5]

The parties are reminded that arguments made in rebuttal and sur-rebuttal must be responsive to arguments the opposing party made in its immediately preceding presentation. Additionally, the parties may only rely upon evidence that has been previously submitted in this proceeding and may only present arguments that have been previously made in the submitted papers. No new evidence or arguments may be presented at the hearing. The parties have not requested to present live testimony during the hearing; thus, live testimony will not be permitted.

B. Pre-Hearing Conference

Either party may request a pre-hearing conference. *See* CTPG 82; *see also* 84 Fed. Reg. 64,280 (Nov. 21, 2019). "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." CTPG 82. Requests must be made by **September 2, 2025**.[6] To request such a conference, the parties should jointly contact the Board at trials@uspto.gov and include several dates and times of availability that are generally no later than **three (3) business days** prior to the hearing.

[5] *Available at* https://www.uspto.gov/TrialPracticeGuideConsolidated.

[6] This is a change from Due Date 6 in the Scheduling Order (Paper 10).

C. Demonstrative Exhibits

At least **seven (7) business days** prior to the hearing, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing. *See* 37 C.F.R. § 42.70(b). At least **five (5) business days** prior to the hearing, the parties shall file any demonstrative exhibits in this proceeding. A copy of the demonstratives should also be sent by email to PTABHearings@uspto.gov.

Demonstratives are not a mechanism for making new arguments. Indeed, "no new evidence may be presented at the oral argument." CTPG 85; *see also St. Jude Med., Cardiology Div., Inc. v. Bd. of Regents of the Univ. of Mich.*, IPR2013-00041, Paper 65 at 2–3 (PTAB Jan. 27, 2014) (explaining that "new" evidence includes evidence already of record but not previously discussed in any paper of record). Demonstrative exhibits used at the hearing are not evidence, nor will they 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").

Furthermore, because of the strict prohibition against the presentation of new evidence or arguments at a hearing, it is strongly recommended that each demonstrative include a citation to the record, which 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 afforded for the parties to reach an agreement without involving the Board, the Board does not anticipate that objections to demonstratives are likely to be sustained. Nevertheless, to the extent that a party objects to the propriety of any demonstrative, the Board expects the parties will meet and confer in good faith to resolve any objections prior to raising the objections with the Board. For any objection to a demonstrative that cannot be resolved after conferring with the opposing party, the parties may email Trials@uspto.gov with a one-page list of objections at least **four (4) business days** prior to the hearing. The list should identify with particularity which demonstrative exhibits are subject to objection and include a short statement (no more than one short sentence) 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 until at or after the hearing.[7] Any objection to demonstratives that is not timely presented will be considered waived.

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 remotely.

[7] If time permits, the Board may schedule a conference call with the parties to discuss any objections raised prior to the hearing.

D. Presenting Counsel

The Board generally expects lead counsel for each party to be present in-person at the hearing. *See* CTPG 11. 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 in-person, the parties should email trials@uspto.gov or, alternatively, initiate a joint telephone conference with the Board no later than **three (3) business days** prior to the oral hearing to discuss the matter.

E. Remote Attendance Requests

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

F. Audio and 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 accommodate the special request. Any special requests must be presented in a separate communication at least **five (5) business days** before the hearing date.

G. Legal Experience and Advancement Program

The parties are encouraged to participate in the Board's LEAP program.[8] 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, depending on the length of the proceeding and the PTAB's hearing schedule. A party should submit a request no later than at least **five (5) business days** before the hearing, by email to the Board at PTABHearings@uspto.gov.[9]

II. ORDER

Accordingly, it is

ORDERED that oral argument for this proceeding shall commence at **1:00PM Eastern Time** on **September 10, 2025**, in-person at the USPTO headquarters in Alexandria, Virginia, and shall proceed in the manner set forth herein.

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[8] 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.

[9] Additionally, a LEAP Verification Form shall be submitted by the LEAP practitioner, confirming eligibility for the program. A combined LEAP Practitioner Request for Oral Hearing Participation and Verification Form is available at the LEAP website, www.uspto.gov/leap.

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