

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVANOS MEDICAL, INC.,
Petitioner,

v.

STRATUS MEDICAL, LLC,
Patent Owner.

IPR2024-01209 (Patent 10,966,782)

IPR2024-01210 (Patent 10,736,688)

IPR2024-01211 (Patent 10,736,688)

IPR2024-01212 (Patent 10,925,664)¹

Before SUSAN L. C. MITCHELL, MICHAEL J. FITZPATRICK, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

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

¹ This Order is being entered in each of the four proceedings identified. The proceedings have not been consolidated. The parties may not file papers captioned for multiple proceedings unless authorized to do so.

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I. ORAL ARGUMENT

Each of the parties, Petitioner, Avanos Medical, Inc., and Patent Owner, Stratus Medical, LLC, filed requests for one consolidated oral argument for all four proceedings. Paper 39; Paper 43.² Oral argument is granted.

A. Time and Format

Oral argument will commence at 1:00 PM Eastern Time on November 6, 2025. *See* Paper 9 (Scheduling Order setting November 6, 2025, as the date for oral argument). The hearing will be in-person at the USPTO headquarters in Alexandria, VA, as requested by both parties. Paper 39; Paper 43, 1. However, Judge Fitzpatrick and Judge Peslak will appear remotely.

The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

We note that Petitioner requested sixty minutes of argument time, whereas Patent Owner requested thirty to forty-five minutes. Paper 39; Paper 43, 1. Because the consolidated argument will cover four proceedings, we opt for the lengthier alternative. Thus, Petitioner will have a total of sixty (60) minutes to present argument, and Patent Owner will have a total of sixty (60) minutes to respond. Petitioner will open the hearing by presenting its case(s) regarding the challenged claims. Thereafter, Patent Owner will respond to Petitioner's argument. Petitioner

² We cite to the record in IPR2024-01209 as exemplary of all four cases.

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may reserve rebuttal time to respond to arguments presented by Patent Owner. In accordance with the Consolidated Trial Practice Guide³ (“CTPG”), issued in November 2019, Patent Owner may request to reserve time for a brief sur-rebuttal. *See* CTPG 83.

B. Demonstratives

As set forth in 37 C.F.R. § 42.70(b), demonstratives shall be served on opposing counsel at least seven (7) business days before the hearing date.⁴ The demonstratives should be filed no later than November 3, 2025.

Demonstratives are not a mechanism for making new arguments. Demonstratives also are not evidence, and will not 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. Accelaron, 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”). “[N]o new evidence may be presented at the oral argument.” CTPG 85.

Furthermore, because of the strict prohibition against the presentation of new evidence or arguments at a hearing, it is strongly recommended that

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

⁴ The parties may stipulate to an alternative schedule for serving demonstratives.

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each demonstrative include a citation to the record, which allows the Board to easily ascertain whether a given demonstrative contains “new” argument or evidence or, instead, contains only that which is developed in the existing record.

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 parties shall meet and confer in good faith to resolve any objections to demonstratives prior to filing the objections with the Board. If such objections cannot be resolved, the parties may file any objections to demonstratives with the Board no later than twenty-four (24) hours before the time of the hearing. The objections shall identify with particularity which portions of the demonstratives are subject to objection (and should include a copy of the objected-to portions) and include a one (1) 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.⁵

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

⁵ If time permits, the Board may schedule a conference call with the parties to discuss any filed objections.

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accuracy of the court reporter's transcript and for the benefit of all participants appearing electronically.

C. Presenting Counsel

The Board generally expects lead counsel for each party to be present at the hearing. *See* CTPG 11. Any counsel of record may present the party's argument.

D. 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 seven (7) business days prior to the hearing date.

E. Audio/Visual Equipment Requests

A party may indicate any special requests related to appearing at a video hearing, such as a request to accommodate deaf or hard-of-hearing individuals and blind or low vision individuals, 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.

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F. Legal Experience and Advancement Program

Parties are welcome to participate in the LEAP program.⁶ 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 minutes of additional argument time to that party. A party should submit the LEAP Practitioner Verification Form and Request for Oral Hearing Participation, at least five business days before the oral hearing, by email to the Board at PTABHearings@uspto.gov.

II. ORDER

Accordingly, it is

ORDERED that oral argument for this proceeding shall commence at 1:00 PM ET on November 6, 2025, in Hearing Room D at the USPTO headquarters in Alexandria, VA, and proceed in the manner set forth herein.

⁶ 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.

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