

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIBERTY ENERGY SERVICES LLC and LIBERTY ENERGY INC.,
Petitioner,

v.

U.S. WELL SERVICES, LLC,
Patent Owner.

IPR2025-00139
Patent 11,208,878 B2

Before MEREDITH C. PETRAVICK, GEORGE R. HOSKINS, and
SEAN P. O'HANLON, *Administrative Patent Judges*.

O'HANLON, *Administrative Patent Judge*.

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

I. ORAL ARGUMENT

A. Time and Format¹

The hearing will commence at 10:00 AM EASTERN TIME on March 12, 2026, on the ninth floor of Madison Building East of the U.S. Patent and Trademark Office (“USPTO”) headquarters in Alexandria, Virginia, 600 Dulany Street, Alexandria, Virginia,² with Petitioner appearing by video from the Texas Regional Office in Dallas, Texas. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis. The parties are directed to contact the Board at least ten 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. To facilitate planning, each party must send an email message to PTABHearings@uspto.gov five days prior to the hearing if the number planning to attend the hearing in-person for its side (attorneys and others) exceeds five people.

Each party will have forty-five minutes of total time to present arguments. As the party with the burden of proving unpatentability, Petitioner will proceed first to present its case with regard to the challenged

¹ 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.

² Visitors to any USPTO facility where identification is required must 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 at <https://www.tsa.gov/travel/security-screening/identification>.

claims for which the Board instituted trial. Thereafter, Patent Owner may respond to Petitioner's case. Petitioner and Patent Owner may reserve some, but no more than half, of the allotted time for rebuttal and sur-rebuttal, respectively. 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 are also reminded that during the hearing, the parties "may only present arguments relied upon in the papers previously submitted." Patent Trial and Appeal Board Consolidated Trial Practice Guide ("CTPG") 86 (Nov. 2019).³

The parties may request a pre-hearing conference in advance of the hearing. *See* CTPG 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.* If either party desires a pre-hearing conference, the parties should jointly contact the Board at Trials@uspto.gov by DUE DATE 6 as identified in the Scheduling Order to request a conference call for that purpose. Any request should include an agreed-upon set of issues for discussion and several proposed times for the conference. Any pre-hearing conference should take place at least three business days before the hearing date.

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

B. Demonstratives

At least seven days prior to the hearing, each party shall serve on the other party any demonstrative exhibit(s) it intends to use during the hearing.⁴ At least five days prior to the hearing, each party shall file any demonstrative exhibits it intends to use during the hearing as exhibits.

Demonstrative exhibits used at the oral hearing are aids to oral argument and are not evidence. Accordingly, demonstrative exhibits shall be clearly marked with the words “DEMONSTRATIVE EXHIBIT – NOT EVIDENCE” in the footer. Demonstrative exhibits cannot be used to advance arguments or introduce evidence not previously presented in the record. *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”). “[N]o new evidence may be presented at the oral argument.” CTPG 86; *see also St. Jude Med., Cardiology Div., Inc. v. Bd. of Regents of the Univ. of Mich.*, IPR2013-00041, Paper 65, 2–3 (PTAB Jan. 27, 2014) (explaining that “new” evidence includes evidence already of record but not previously discussed in any paper of record).

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 a paper in 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.

⁴ The parties may agree, without involving the Board, to an alternative schedule for serving demonstratives.

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 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 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 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 electronically.

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

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 as long as that counsel is present.

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 ten business days prior to the hearing date.

E. 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 an in-person oral 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 not less than five days before the hearing.

F. Legal Experience and Advancement Program

Parties are encouraged 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.

All practitioners appearing before the Board shall demonstrate the highest professional standards. All practitioners are expected to have a command of the factual record, the applicable law, and Board procedures, as well as the authority to commit the party they represent.

II. ORDER

Accordingly, it is

ORDERED that oral argument for this proceeding shall commence at 10:00 AM EASTERN TIME on March 12, 2026, 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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