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Paper: 20
Date: February 12, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUXOTTICA OF AMERICA INC.,
Petitioner,

v.

E-VISION SMART OPTICS, INC.,
Patent Owner.

IPR2025-00216
Patent 11,487,138 B2

Before RICHARD H. MARSCHALL, JOHN D. HAMANN, and SEAN P. O'HANLON, *Administrative Patent Judges*.

HAMANN, *Administrative Patent Judge*.

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

I. ORAL ARGUMENT

A. Time and Format[1]

Oral arguments will commence at 1:00 PM Eastern Time on March 3, 2026 at USPTO Headquarters in Alexandria, Virginia.[2] The Board will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.[3]

Petitioner will have a total of sixty (60) minutes to present argument in this case and Patent Owner will have a total of sixty (60) minutes to respond. Petitioner will open the hearing by presenting its case regarding the challenged claims for which the Board instituted trial. Thereafter, Patent Owner will respond to Petitioner's argument. Petitioner may reserve rebuttal time to respond to arguments presented by Patent Owner. In accordance with the Consolidated Trial Practice Guide[4] ("CTPG"), issued in November 2019, Patent Owner may request to reserve time for a brief sur-rebuttal. *See* CTPG 83.

The parties may request a pre-hearing conference in advance of the hearing. *See Id.* at 82. "The purpose of the pre-hearing conference is to

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[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.
[3] 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.
[4] Available at https://www.uspto.gov/TrialPracticeGuideConsolidated.

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 indicated in the Scheduling Order in this proceeding) 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.

B. Demonstratives

As set forth in 37 C.F.R. § 42.70(b), demonstratives shall be served on opposing counsel at least five (5) business days before the hearing date and filed no later than two business days before the hearing.[5]

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. 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

[5] The parties may stipulate to an alternative schedule for serving demonstratives, and request that the Board modify the schedule for filing demonstratives at least seven (7) business days before the hearing date.

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.

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 (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.[6] 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.

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 in person.

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 (10) 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 a video hearing, such as a request to accommodate deaf or hard-of-hearing individuals and blind or low- vision individuals, and

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

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.

F. Legal Experience and Advancement Program

Parties are encouraged to participate in the LEAP program.[7] 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 15 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 5 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 Eastern Time on March 3, 2026 at USPTO Headquarters in Alexandria, Virginia, and proceed in the manner set forth herein.

[7] 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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