

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOPSOE, INC.,
Petitioner,

v.

L’AIR LIQUIDE, SOCIÉTÉ ANONYME POUR L’ETUDE ET
L’EXPLOITATION DES PROCÉDÉS GEORGES CLAUDE,
Patent Owner.

IPR2025-01173
Patent 11,673,805 B2

Before GRACE KARAFFA OBERMANN, JO-ANNE M. KOKOSKI,
and LILAN REN, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
Setting Fully Remote Final Oral Arguments
Setting Parameters of Pre-Hearing Conference
Ordering Submission of Pre-Hearing Conference Agenda
37 C.F.R. § 42.5

On August 11, 2026, due to scheduling constraints, the Board entered an Order (Paper 33) that revised the Scheduling Order entered on January 3, 2026 (Paper 20). Among other things, the Order changed the date for the pre-hearing conference to September 23, 2026, and the date for final oral arguments to October 7, 2026. Paper 33 at 1.

On August 11, 2026, the parties also filed requests that the final oral arguments be held at the Dallas, Texas USPTO Regional Office. Paper 34 at 2; Paper 35 at 1.

Good Cause Exists for a Fully Remote Final Hearing

On August 27, 2026, the panel conducted a teleconference with counsel for both parties to discuss the logistics of the final oral arguments. The panel explained that, although counsel may appear for the final oral arguments at the Dallas, Texas USPTO Regional Office, none of the judges would appear in-person at that location. The panel also explained several alternative options for the final arguments, including that the parties may seek a fully remote final hearing for good cause shown. On September 3, 2026, the parties jointly requested a fully remote final hearing for good cause shown. *See* Ex. 3002 (joint email from the parties).

For the following reasons, we determine that good cause exists for conducting final oral arguments in a fully remote hearing on October 7, 2026. The Board changed the date of the final arguments relatively late in this proceeding. *See* Paper 33 at 1. During the teleconference held on August 27, 2026, counsel for Patent Owner explained that pre-existing travel plans conflicted with counsel's ability to appear at USPTO Headquarters in Alexandria, Virginia, on the new date set for the final oral arguments.

During that teleconference, counsel for the parties also discussed the expense (and relative value) of appearing at the Dallas, Texas USPTO Regional Office for final oral arguments that would be presented to a fully remote panel of judges. At the conclusion of the teleconference, the panel requested that counsel confer with their clients then jointly advise the Board by email of their wishes regarding the logistics of the final oral arguments.

In the joint email submitted on September 4, 2026, the parties requested a fully remote hearing supported by reasons why “good cause exists for a fully remote hearing,” namely, “(1) Patent Owner’s travel schedule would prevent travel to Alexandria for the hearing date, and (2) both parties wish to avoid the additional expense associated with in-person travel” for their “appearance” in Dallas, Texas at a hearing in which no judges would be appearing in-person. Ex. 3002.

Against that backdrop, for good cause shown, the final oral arguments shall be heard in a fully remote hearing on October 7, 2026.

Parameters of Pre-Hearing Conference

At the teleconference held on August 27, 2026, the panel and counsel also discussed the pre-hearing teleconference set for September 23, 2026. The panel explained that the teleconference set for September 23, 2026, should be tailored to assist the parties and the Board in streamlining the final oral arguments, but should not devolve into arguments about the merits of any disputed issue.

Ordering Submission of Pre-Hearing Conference Agenda

The Board determines that a Pre-Hearing Conference Agenda may be helpful to the panel in conducting the teleconference set for September 23, 2026, and ensuring that the conference does not devolve into arguments

about the merits of any disputed issue. Toward that end, we order counsel to jointly file a short Pre-Hearing Conference Agenda that lists the topics counsel would like to discuss at the teleconference, with a focus on how the parties and the Board can best streamline the final oral arguments. *See* Scheduling Order (Paper 20), 7 (describing the purpose of the pre-hearing conference and describing the kinds of topics that can be discussed); Trial Practice Guide,¹ §II.M. This agenda shall in no way limit the topics that counsel may raise during the final oral hearing. To be clear, the parties may raise any issue at the final oral hearing that is briefed during the proceeding. The Pre-Hearing Conference Agenda should be jointly filed no later than September 22, 2026.

Hearing Order to Issue in Due Course

This is not the Hearing Order. The Board shall issue the Hearing Order in due course after the pre-hearing conference set for September 23, 2026.

It is

ORDERED that final oral arguments shall be heard in a fully remote hearing on October 7, 2026; and

FURTHER ORDERED that the parties shall jointly file a Pre-Hearing Conference Agenda, which complies with the parameters set forth in this Order, no later than September 22, 2026.

¹ Available at: <https://www.uspto.gov/patents/ptab/trial-practice-guide>

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