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Paper 29
Date: February 5, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

QUALCOMM INCORPORATED,
Patent Owner.

IPR2019-00128
IPR2019-00129[1]
Patent 9,154,356 B2

Before DANIEL N. FISHMAN, MICHELLE N. WORMMEESTER, and AARON W. MOORE, *Administrative Patent Judges*.

WORMMEESTER, *Administrative Patent Judge*.

ORDER
Oral Hearing
37 U.S.C. § 42.70

[1] This Order sets forth consolidated oral argument for the above-identified cases. We issue this Order to be entered in each case. The parties are not authorized to use this style heading in subsequent papers.

In each of the above-identified cases, we instituted *inter partes* review (Paper 9)[2] and issued a Scheduling Order (Paper 10) that sets the date for oral hearing as February 27, 2020, if a hearing is requested by the parties and granted by the Board. Both parties request oral hearing pursuant to 37 C.F.R. § 42.70. Paper 23; Paper 24. We grant those requests.

The hearing for these proceedings will commence at **1:00 PM Eastern Time**, on **February 27, 2020**, and will be open to the public for in-person attendance at the USPTO Headquarters, on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia. In-person attendance will be accommodated on a first-come, first-served basis. If the parties have any concern about disclosing confidential information, they are requested to contact the Board at least ten (10) business days in advance of the hearing to discuss the matter. We will provide a court reporter for the hearing, and the reporter's transcript will constitute the official record of the hearing.

We grant **60 minutes** of oral argument time to each party, for a total of two hours. Because Petitioner bears the ultimate burden of proof that the challenged claims are unpatentable, Petitioner will proceed first to present its case as to the challenged claims. Petitioner may reserve some, but not more than half, of its argument time for rebuttal. Thereafter, Patent Owner will respond to Petitioner's case. Patent Owner may similarly reserve some of its argument time for sur-rebuttal. Next, Petitioner may use any time it has reserved for rebuttal to respond to Patent Owner's specific arguments presented at the hearing. Then, Patent Owner may present a brief sur-

[2] Paper numbers refer to IPR2019-00128.

rebuttal if it has reserved time. No live testimony from any witness will be taken at the oral argument.

Pursuant to 37 C.F.R. § 42.70(b), any demonstrative exhibits must be served no later than seven (7) business days before the hearing date, and filed with the Board no later than five (5) business days before the hearing date. **Demonstrative exhibits are merely a visual aid for use at the hearing and are not evidence.** They may not introduce new arguments or evidence. The parties shall meet and confer to discuss any objections to demonstrative exhibits at least three (3) business days before the hearing. If any issues regarding demonstrative exhibits remain unresolved after the parties meet and confer, the parties may file jointly a one-page list of objections to the demonstrative exhibits at least two (2) business days before the hearing. For each objection, the list must identify with particularity the demonstrative exhibits that are subject to the objection and include a short, one-sentence statement explaining the objection. Any objection to demonstrative exhibits that is not presented timely will be considered waived. We will consider the objections and schedule a conference call if necessary. We may reserve ruling on the objections until after the oral hearing. For further guidance regarding the appropriate content of demonstrative exhibits, the parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. Board of Regents of the University of Michigan*, IPR2013-00041, Paper 65 (PTAB Jan. 27, 2014). *See also CBS Interactive Inc. v. Helferich Patent Licensing, LLC*, IPR2013-00033, Paper 118 (PTAB Oct. 23, 2013) (The Board has the discretion to limit the parties' demonstratives to pages in the record should there be no easy resolution to

objections over demonstratives.). Each party also shall provide a hard copy of its demonstrative exhibits to the court reporter at the hearing.

One or more judges on the panel may attend the hearing electronically from a remote location and would have access only to the filed copy of the demonstratives provided in advance, as referenced above. If a demonstrative is not made available to the Board in the manner indicated above, that demonstrative may not be available to each of the judges during the hearing and may not be considered. Images projected, using audio-visual equipment in Alexandria, will not be visible to any judge attending the hearing electronically. We take this opportunity to remind the parties that each presenter must identify clearly and specifically each demonstrative exhibit (e.g., by slide or screen number) referenced during the hearing to ensure the clarity and accuracy of the reporter's transcript, as well as to enable any judge attending the hearing electronically to follow the presentation. Further, due to limitations on the audio transmission systems in our hearing rooms, a presenter may speak only when standing at the hearing room podium.

The Board expects lead counsel for each party to be present in person at the oral hearing. Any counsel of record, however, may present the party's argument as long as that counsel is present in person. If either party expects that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than five (5) business days prior to the oral hearing to discuss the matter.

A party may request remote video attendance for one or more of its other attendees to view the hearing from any USPTO location. The

available locations include the Rocky Mountain Regional Office in Denver, Colorado; the Texas Regional Office in Dallas, Texas; the Elijah J. McCoy Midwest Regional Office in Detroit, Michigan; and the Silicon Valley Office in San Jose, California. To request remote video viewing, a party must send an e-mail message to Trials@uspto.gov at least ten (10) business days prior to the hearing, indicating the requested location and the number planning to view the hearing from the remote location. The Board will notify the parties if the request for video viewing is granted. Note that it may not be possible to grant the request due to the availability of resources.

Any special requests for audio-visual equipment should be directed to Trials@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 physical needs that limit mobility or visual or hearing impairments, and indicate how the PTAB may accommodate the special request. **Any special requests must be presented in a separate communication not less than five (5) days before the hearing.** If requests are not received timely, then requested accommodations and equipment may not be available on the day of the hearing.

It is

ORDERED that oral argument will commence at 1:00 PM ET on February 27, 2020, in Alexandria, Virginia.

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