

# United States Court of Appeals for the Federal Circuit

## ORAL ARGUMENT ORDER

2008-1001

JACOBSEN V KATZER

This appeal is scheduled for oral argument in the U.S. Court of Appeals for the Federal Circuit, Howard T. Markey National Courts Building, 717 Madison Place, N.W., Washington, D.C.:

**Date:** Wednesday, 05/07/2008

**Time:** 10:00 A.M.

**Courtroom No.** 201

**Argument Time:** 15 MIN PER SIDE

**Counsel for the appellant/petitioner/  
intervenor(s):** Victoria K. Hall

**Counsel for the appellee/respondent/cross-appellant/  
intervenor(s):** Robert S. Jerger

The appeal having been placed on the oral argument calendar, counsel need not submit the statement allowed by Fed. R. App. P. 34(a), setting forth the reasons why oral argument should be heard. Notwithstanding the scheduling for oral argument, the panel of judges that will decide the appeal, upon further consideration, may yet disallow oral argument, under the circumstances set forth in Fed. R. App. P. 34(a), and, if so, counsel will be duly notified by the clerk.

An Information Sheet, Notices to Counsel on Oral Argument and Courtroom Decorum, a Calendar Announcement, and a pink Response to Oral Argument Order are attached.

Return the pink sheet no later than April 15, 2008. See Fed. Cir. R. 25(b) regarding facsimile transmission.

FOR THE COURT

Jan Horbaly  
Clerk

March 21, 2008

cc: Victoria K. Hall  
Robert S. Jerger  
Anthony T. Falzone

# United States Court of Appeals for the Federal Circuit

## INFORMATION SHEET

The **Oral Argument Order** contains the names of counsel who we believe will argue the appeal, based on the notices of appearance that are on file.

Please advise this office immediately, by returning the pink sheet, but in any event no later than the due date of the Order, of the name(s) of counsel who will argue the appeal (see paragraph 1 of the enclosed **blue** Notice to Counsel on Oral Argument).

Clip-on microphones are available at the counsel table. The courtroom deputy can answer questions about the microphone's operation. Use of the clip-on microphone is not normally necessary unless counsel expects to speak while away from the podium, such as when moving toward an exhibit.

Counsel may elect to submit the case on the briefs *without* prejudice to full consideration of the issues.

The identity of the judges on the panel will not be revealed until 9 a.m. on the day of oral argument for the morning session, and 11 a.m. for the afternoon session.

Counsel are encouraged to continue settlement discussions and are requested to notify the Clerk promptly if they come to an agreement that the appeal may be voluntarily dismissed.

For your information, hotels nearby include The Capitol Hilton, The Crowne Plaza Hotel, The Grand Hyatt Washington, The Hay Adams, The Jefferson, The J.W. Marriott, The Madison Hotel, The Renaissance Mayflower Hotel, Sofitel, The St. Regis Washington, and The Willard-Intercontinental.

In the event of extreme weather conditions, counsel should listen for radio or television announcements. An emergency message will also be available by telephoning (202) 633-6550. Only if the Federal Government is closed and employees are instructed not to report for work, will the session be canceled. If canceled, you will be notified by letter or telephone when the oral argument is rescheduled.

If there any questions, please contact Senior Deputy Clerk Karen Smagala Hendrick, 202-312-5523.

JAN HORBALY  
Clerk

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

## Calendar Announcement (This calendar is subject to revision.)

### \*\* Panel B: Monday, May 5, 2008, 10:00 A.M., Courtroom 201

2007-1203	DCT	VITA ZAHNFABRIK V DENTSPLY INTL	[argued]
2007-1538	DCT	AIRGO IP V ARVINMERITOR	[argued]
2007-5174	CFC	AMERICAN AIRLINES V US	[argued]
2008-3043	MSPB	KING V VA	[on the briefs]
2008-3095	MSPB	KING V VA	[on the briefs]

### \*\* Panel C: Monday, May 5, 2008, 10:00 A.M., Courtroom 402

2007-1324	DCT	MAXWELL TECH V NESSCAP	[argued]
2007-1540	BCA	SYSTEMS INTEGRATED V NAVY	[argued]
2007-1564	DCT	BD OF TRUST LELAND V MOTOROLA	[argued]
2008-3044	MSPB	SEDGWICK V MSPB	[on the briefs]
2008-5026	CFC	ZAKIYA V US	[on the briefs]

### \*\* Panel D: Monday, May 5, 2008, 10:00 A.M., Courtroom 203

2007-1442	CIT	US V FORD MOTOR	[argued]
2007-1519	PTO	GOLDBERG V BASS	[argued]
2007-1532	PTO	GOLDBERG V BASS	[argued]
2008-3052	MSPB	JONES V MSPB	[on the briefs]
2008-5027	CFC	SPAIN V US	[on the briefs]

### \*\* Panel E: Tuesday, May 6, 2008, 10:00 A.M., Courtroom 201

2007-1363	DCT	HOWMEDICA OSTEONIC V WRIGHT MEDICAL	[argued]
2007-1388	DCT	BOARD OF REGENTS V BENQ AMERICA	[argued]
2008-1020	DCT	TECHNOLOGY PROPERTIES V ARM LTD	[argued]
2008-3061	MSPB	DAVIS V MSPB	[on the briefs]
2008-5029	CFC	WILDER V US	[on the briefs]

### \*\* Panel F: Tuesday, May 6, 2008, 10:00 A.M., Courtroom 402

2007-1414	DCT	ASTRAZENECA AB V APOTEX	[argued]
2007-1476	DCT	ASTRAZENECA AB V MYLAN LABS	[argued]
2007-1534	PTO	IN RE SWANSON	[argued]
2008-1033	BCA	NOVA EXPRESS V USPS	[on the briefs]
2008-3065	MSPB	DANIELS V VA	[on the briefs]

### \*\* Panel G: Tuesday, May 6, 2008, 10:00 A.M., Courtroom 203

2007-7199	CVA	RAUCH V DVA	[argued]
2007-1441	DCT	TECHNOLOGY LICENSING V VIDEOTEK	[argued]
2008-1036	DCT	ADVANCEME V RAPIDPAY	[argued]
2007-7035	CVA	SCHUMACHER V DVA	[on the briefs]
2008-3069	MSPB	JOHNSON V SSA	[on the briefs]

### \*\* Panel H: Wednesday, May 7, 2008, 10:00 A.M., Courtroom 201

2007-7265	CVA	WHITING V DVA	[argued]
2008-1001	DCT	JACOBSEN V KATZER	[argued]
2008-1021	DCT	ROCHE PALO ALTO V APOTEX	[argued]
2007-7267	CVA	BROWN V DVA	[on the briefs]
2008-3072	MSPB	GROSECLOSE V NAVY	[on the briefs]

**\*\* Panel I: Wednesday, May 7, 2008, 10:00 A.M., Courtroom 402**

2007-1400	DCT	ABBOTT LABS V SANDOZ	[argued]
2007-1446	DCT	LUPIN LTD V ABBOTT LABS	[argued]
2007-7299	CVA	BROWN V DVA	[argued]
2008-7024	CVA	LECHLITER V DVA	[on the briefs]
2008-3073	MSPB	ZAMUDIO V SSA	[on the briefs]

**\*\* Panel J: Wednesday, May 7, 2008, 10:00 A.M., Courtroom 203**

2007-5070	CFC	SUESS V US	[argued]
2007-3210	MSPB	HAIGHT V JUSTICE	[argued]
2007-5153	CFC	CASITAS MUNICIPAL WATER V US	[argued]
2008-3080	MSPB	MITCHELL V COMMERCE	[on the briefs]
2008-7060	CVA	GOMEZ V DVA	[on the briefs]

**\*\* Panel A: Thursday, May 8, 2008, 2:00 P.M., Courtroom 201**

2007-1130	PTO	IN RE BILSKI	[argued]
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**\*\* Panel K: Friday, May 9, 2008, 10:00 A.M., Courtroom 201**

2007-1399	DCT	SCANNER TECHNOLOGIES V ICOS VISION	[argued]
2007-5140	CFC	BLUEPORT COMPANY V US	[argued]
2007-3304	MSPB	ARNOLD V FDIC	[argued]
2007-3320	MSPB	KUYKENDALL V OPM	[on the briefs]
2008-5021	CFC	NAUMENKO V US	[on the briefs]

**\*\* Panel L: Friday, May 9, 2008, 10:00 A.M., Courtroom 402**

2007-5146	CFC	H.J. HEINZ COMPANY V US	[argued]
2007-1483	DCT	PRAXAIR V ATMI	[argued]
2007-3326	MSPB	DOYLE V ARMY	[argued]
2007-3322	MSPB	ROMERO V DEFENSE	[on the briefs]
2008-3096	MSPB	ALEXANDER V OPM	[on the briefs]

**\*\* Panel M: Friday, May 9, 2008, 10:00 A.M., Courtroom 203**

2007-5108	CFC	CONSOLIDATION COAL V US	[argued]
2007-5126	CFC	WHITE V US	[argued]
2007-1523	DCT	FARGO ELECTRONICS V IRIS LTD	[argued]
2008-3037	MSPB	SMITH V MSPB	[on the briefs]
2008-3109	MSPB	HICKMON V USPS	[on the briefs]

## ORAL ARGUMENT CLOCK

The digital clock on the podium provides the time remaining of your argument (including any requested rebuttal time).

**GREEN LIGHT:** You are within your allotted time.

**YELLOW LIGHT:** You are in your prearranged rebuttal time (only if reserved by appellant/cross-appellant)

**RED LIGHT:** You have used all of your available time.

When the red light illuminates, your time is finished and you are to stop. The time appearing on the clock now indicates how long you are continuing past your allotted time.

## COURTROOM DECORUM

- The dignity of the court is to be respected and maintained at all times.
- Attire for counsel and spectators should be restrained and appropriate to the dignity of a Court of Appeals of the United States.
- Court security officers and court staff are authorized to open and inspect any item carried into a courtroom.
- Everyone in the courtroom, unless physically challenged, must rise when the judges enter and remain standing until the presiding judge invites everyone to be seated. Similarly, when court adjourns, everyone stands in place until the judges are no longer visible.
- Standing in the courtroom may be permitted only at the discretion of the clerk. Individual chairs against the side walls of the spectator area are reserved for law clerks and court staff.
- Counsel may address the court when invited to do so. Only counsel associated with the appeal being argued may address the court, unless a judge directs otherwise.
- Coat racks in the hallways outside the courtrooms are to be utilized.
- Only material related to the court's business can be read in the courtroom while court is in session.
- When court is in session, no one should be heard except for counsel making argument or a judge.
- The following items are prohibited in the courtroom and adjacent lobby area:
  - Mobile telephone or audible pager.
  - Recording device.
  - Camera.
  - Food and drink except for the water provided at the counsel table.
  - Computer (except for those to be used by counsel during argument).
- Inappropriate facial gestures or exaggerated gesticulating is forbidden.
- Repeated entrances and departures are to be avoided.
- Doorways and passageways should be kept clear at all times.
- No person under the influence of drugs or intoxicating beverages will be allowed into the courtroom or adjacent areas.

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

## Where we are located:

U.S. Court of Appeals for the Federal Circuit  
National Courts Building  
717 Madison Place, N.W.  
Washington, DC 20439

The Clerk's Office is on the 4<sup>th</sup> floor, room 401.

## Phone:

202-633-6550 (attended during public hours; emergency message for inclement weather or other unusual circumstances);

## By Foot:

The National Courts Building is located on Madison Place between Pennsylvania Avenue and H Street, Northwest, on the east side of Lafayette Square (the President's Park), across from the White House, in downtown Washington, D.C. The Treasury Department, the Department of Veterans Affairs, and St. John's Church and Parish House are nearby. The Dolley Madison House, the former Cosmos Club (now known as the Judicial Annex), and the Tayloe House, famous landmarks fronting on the square adjacent to the National Courts Building, are part of the courthouse complex.

## By Subway:

Take Metro's Blue or Orange Line to the McPherson Square Station. Exit following the signs toward the White House. At street level take Vermont Avenue (bear left at the top of the escalator) in the direction of H Street (turn right on the sidewalk). Crossing H Street, Vermont Avenue becomes Madison Place. The National Courts Building's main entrance is midblock on the east side (left) of the street.

## By Taxi:

Madison Place is closed to vehicular traffic. State your destination as "H and Vermont" or "H and Madison Place". An entryway to the courtyard of the National Courts Building is located on the south side of H Street, adjacent to the Dolley Madison House, 1520 H Street, N.W., and it provides access to the main entrance to the courthouse.

## By Car:

**From the North.** I-95 and the Baltimore-Washington Parkway connect with I-495/95 (Capital Beltway). Follow Baltimore-Washington Parkway, which becomes New York Avenue, into the downtown area. MD 97 (Georgia Avenue) to 16th Street also provides a direct connection to the downtown area.

**From the South.** I-95 connects directly with I-395 (Shirley Highway) for easy access to the 14<sup>th</sup> Street corridor downtown.

**From the West.** I-270 connects directly with I-495 and in conjunction with MD-355 (Wisconsin Avenue) or the George Washington Parkway provides access to the downtown area. I-66 also provides a direct connection to the downtown area, but it is HOV-2 (carpools and buses only) during rush hours.

**From the East.** Direct access to the downtown area is provided by US-50 and New York Avenue.

Automobile access to the courthouse is limited to H Street, which is one-way, eastbound.

## Parking:

The National Courts Building does not have public parking. Some meter parking is available on H, I (Eye), 14<sup>th</sup> and 15<sup>th</sup> Streets, and New York Avenue. Public garages or parking lots are located at:

1420 and 1425 New York Avenue; 1401 New York Avenue (enter on H Street near 14<sup>th</sup> Street); and 815 14<sup>th</sup> Street.

## Accessibility to the disabled:

A flight of steps leads to the courtyard level and main entrance of the courthouse. However, the courtyard entryway on H Street providing alternative access to the main entrance is at sidewalk level without barriers. The Clerk's Office, Library, and two of the courtrooms are also barrier-free.

## Deliveries:

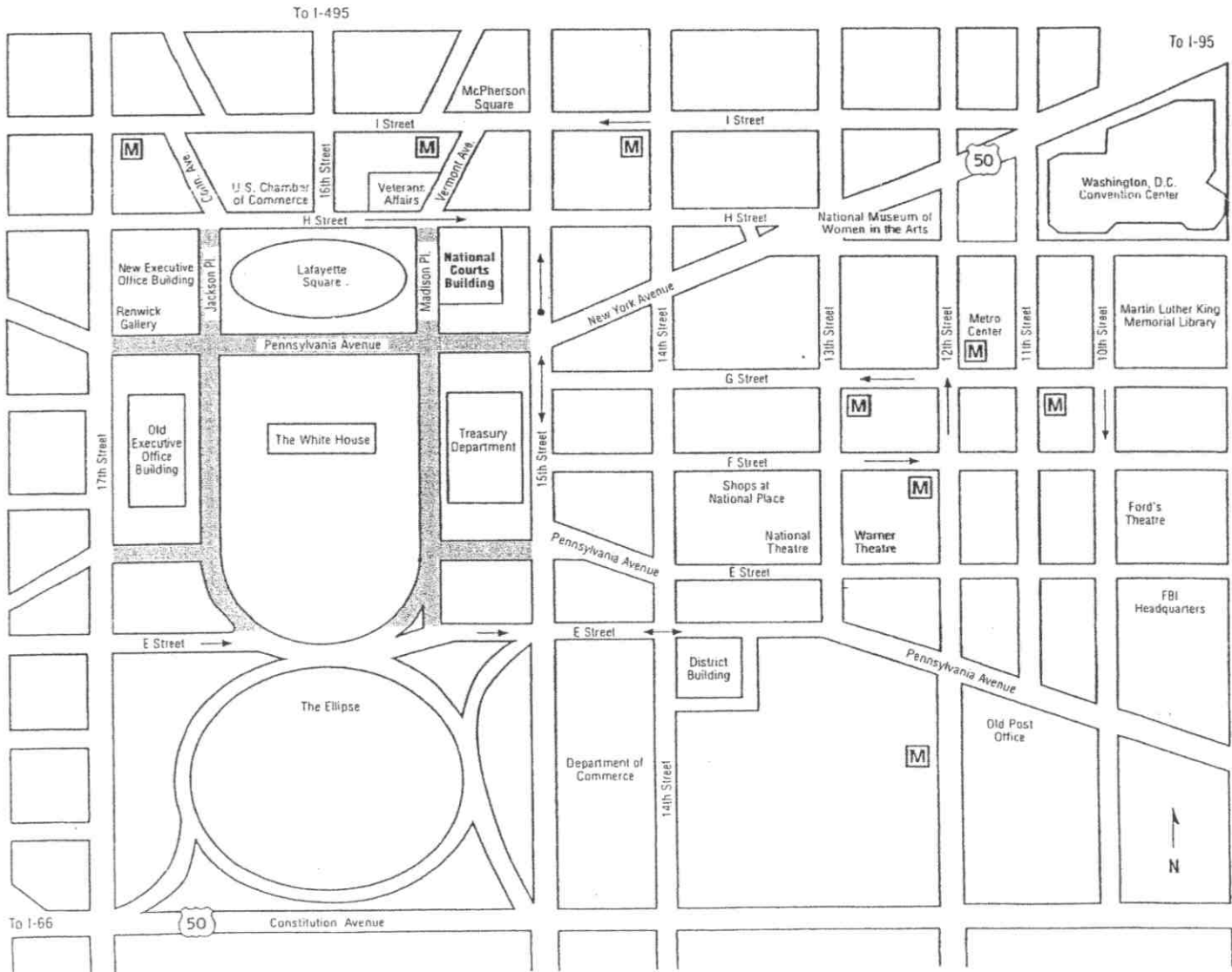
Couriers must use the main entrance for delivery of briefs and other papers and follow instructions from the court security officers. Delivery of bulky items may be made at the loading dock if prior arrangements have been made.

## Security:

The United States Marshals Service provides security for the National Courts Building. Armed court security officers guard all entrances and patrol the building. Visitors must pass through metal detectors, and packages are x-rayed. Visitors also must sign in and out, and wear badges authorizing access to the floors to be visited.



# Finding the National Courts Building





# United States Court of Appeals for the Federal Circuit

## Notice to Counsel

### on Oral Argument

1. The name(s) of counsel who will argue on each side and the order in which they will argue must be given to the clerk at least 10 days before argument. Changes in counsel shall be promptly reported to the clerk. Last minute postponements due to the sudden unavailability of counsel, especially when counsel practices in a firm, will ordinarily not be permitted, resulting in the case being submitted without argument from that side.

2. The court convenes at 10:00 a.m. for morning sessions and at 2:00 p.m. for afternoon sessions. Counsel scheduled to argue must register in the clerk's office (Room 401) between 9:00 and 9:30 a.m. for morning sessions and between 1:00 and 1:30 p.m. for afternoon sessions. Counsel entitled to open and close the argument will be asked if they wish to reserve a portion (usually 5 minutes) of their allotted time for rebuttal. If argument time is to be divided between co-counsel, the clerk must also be so advised at this time. If counsel will not need the entire time allotted, it should be surrendered to the clerk when registering. Time may also be surrendered during the argument.

3. Admissions to the bar are the first order of business. The applicant for admission with sponsor must report to the clerk's office not later than one hour before the session. Please alert the clerk to any special pronunciation of the applicants or sponsor's name.

4. Cases are called in the order indicated on the calendar posted outside the courtroom. The names of the judges constituting the panel appear on the

posted calendar and on the bench. Counsel should remain in the courtroom or its immediate vicinity until their case is reached.

5. The digital clock on the podium provides the time remaining of your argument:

Green Light . . . . You are within allotted time.

Yellow Light . . . . You are in prearranged rebuttal time.

Red Light . . . . . You have used all available time.

When the red light illuminates, your time is finished and you are to stop. The time appearing on the clock now is how long you are continuing past your allotted time.

6. Inquiry should not be made of the Presiding Judge regarding the amount of time remaining.

7. The court will have read the briefs. Counsel should therefore get as promptly as possible to the issue(s) in the case.

8. Arguments are tape recorded, so counsel should speak into the lectern microphone. Clip-on microphones are available at the counsel table. The courtroom deputy can answer questions about the microphone's operation. Use of the clip-on microphone is not normally necessary unless counsel expects to speak while away from the podium, such as when moving toward an exhibit. Identify exhibits, charts, etc., used in argument by name or number, so those listening to the tape may find them in the appendix.

9. Counsel must request permission to hand an item to the bench. Counsel should have already consulted with the opposing counsel and provided a copy of the item. Permission being granted, counsel will hand the item or items to the courtroom deputy.

10. The Rules of Practice before the United States Court of Appeals for the Federal Circuit contain more detailed information about oral argument (Rule 34), including the use of visual aids.

## Notice of Posting of Digital Recordings of Oral Arguments

The Court is now posting digital recordings of oral arguments on the Court's Internet site at [www.cafc.uscourts.gov/oralarguments](http://www.cafc.uscourts.gov/oralarguments). Counsel should exercise caution in discussing at oral argument sensitive personal data, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, national security information, and sensitive security information as described in 49 U.S.C. § 114. Counsel are urged not to discuss at oral argument any sensitive information they do not wish posted on the Internet.