

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner

v.

SIGHTSOUND TECHNOLOGIES, LLC
Patent Owner

Cases CBM2013-00020 and CBM2013-00023
Patents 5,191,573 and 5,966,440

Oral Hearing Held: May 6, 2014

Before MICHAEL P. TIERNEY, JUSTIN T. ARBES, and GEORGIANNA
W. BRADEN, *Administrative Patent Judges*.

APPEARANCES:

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The above-entitled matter came on for hearing on Tuesday, May 6, 2014, commencing at 10:10 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 PROCEEDINGS

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3 JUDGE ARBES: Good morning, everyone. This is the oral hearing
4 in Case CBM2013-00020 involving Patent 5,191,573, and Case CBM2013-
5 00023 involving Patent 5,966,440.

6 Can counsel please state your names for the record?

7 MR. BAUGHMAN: Good morning, Your Honor. Steve Baughman
8 from Ropes & Gray for the Petitioner.

9 MR. BATCHELDER: James Batchelder from Ropes & Gray for the
10 Petitioner.

11 MS. FUKUDA: And Ching-Lee Fukuda from Ropes & Gray for the
12 Petitioner.

13 MR. MARSH: And David Marsh, Arnold & Porter, for the Patentee.

14 MS. SKLENAR: Jennifer Sklenar, Arnold & Porter, for the Patentee.

15 JUDGE ARBES: Thank you.

16 Per the Board's trial hearing order in these two cases, each party will
17 have 60 minutes of total time to present arguments. The order of the
18 presentations will be the Petitioner will go first and present its case as to the
19 challenged claims in both cases, the Patent Owner then will respond to the
20 Petitioner's presentation, and then the Petitioner may use any remaining time
21 that's reserved, if at all, to respond to the Patent Owner's presentation.

22 One reminder before we begin here today is, to ensure that the
23 transcript is clear and because we have one Judge in the Dallas office, please
24 try to remember to refer to your demonstratives by slide number.

1 And counsel, do you have copies of the demonstratives for the
2 court reporter today?

3 MR. BATCHELDER: I do, Your Honor.

4 Your Honor, would you like copies as well, hard copies?

5 JUDGE ARBES: If you have them, yes, please, sir.

6 Okay. Counsel for the Petitioner, you may proceed. And would you
7 like to reserve time for rebuttal?

8 MR. BAUGHMAN: Thank you, Your Honor. Yes, we actually
9 would like to reserve 25 minutes for rebuttal if we may.

10 May it please the Board. Again, my name is Steve Baughman for
11 Petitioner, Apple Inc. With me at counsel table are Mr. Batchelder and
12 Ms. Fukuda. We have Cindy Wheeler, Senior Counsel for Apple in the
13 courtroom with us as well.

14 And I would like to give the Board just a brief overview to begin with,
15 what we plan to address today. There are three topics we plan to address
16 along with, of course, any questions the Board may have. The first, the
17 background of the art and the copies on its disclosures. In addition, the
18 secondary considerations of non-obviousness and expert evidence. My
19 colleagues, Mr. Batchelder and Ms. Fukuda, will generally address
20 CompuSonics' disclosures and expert evidence, and as they arise, I will
21 address certain topics relating to secondary consideration. And with that, I
22 would like to turn the podium over to Mr. Batchelder if I may.

23 MR. BATCHELDER: Good morning again. Judge Braden, can you
24 see and hear me okay?

25 JUDGE BRADEN: Yes, I can. Thank you.

1 MR. BATCHELDER: Thank you. What I would like to do is begin
2 by talking about the claims and then move from there to a couple of high
3 level questions: Is there anything novel or inventive about the components
4 of the patent, the teaching that can be used to practice the claims? And then
5 is there anything novel or inventive or unpredictable about what the patent
6 says is to be done with those components as to how they are to be used?

7 So if we could start with slide 2 in Petitioner's deck. Now, we've got
8 here the Claim 1 from the 573 patent on the left and Claim 1 from the 441 on
9 the right, and we have done some color coding to show some commonalities.
10 But as you can see on the left, the 573 Claim 1 is pretty simple. Transferring
11 money electronically is highlighted in the green at the top, and then in the
12 blue you need to connect two memories with a telecommunication line,
13 transmit a signal across those lines, and then at the bottom in yellow you
14 need to store the transmitted signal. That is what SightSound says the
15 claims require. Again, that is pretty simple stuff.

16 And again, we've used color coding on the right to show the
17 commonality. The forming a connection is really the same; that is in light
18 blue. The green, again, we have transferred money electronically on the left.
19 On the right it's just looking at the other side of that, charging a fee and
20 charging an account with the same general idea. And then again, there is
21 storing. And the only twist on the 440 storing is that it is not a tape or CD.
22 And then the one thing added there on the right is, in red, the playing, but of
23 course that was done all over the arch.

24 So those are the elements of the claims. They are simple, very high
25 level concepts.

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