

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION; HTC AMERICA, INC.; SAMSUNG ELECTRONICS
CO., LTD.; and SAMSUNG ELECTRONICS AMERICA, INC.
Petitioner

v.

E-WATCH, INC. and E-WATCH CORPORATION
Patent Owner

CASE IPR2014-00987¹
Patent No. 7,365,871

**PETITIONER'S RESPONSE TO PATENT OWNER'S
MOTION FOR OBSERVATION**

¹ Case IPR2015-00541 has been joined with this proceeding.

Petitioner HTC and Petitioner Samsung hereby file this response to Patent Owner's Motion for Observation Regarding Cross-Examination of Kenneth Parulski, dated May 25, 2015, pursuant to the Board's Scheduling Order, dated December 9, 2014 (Paper 7).

RESPONSE TO OBSERVATION NUMBER 1

The cited testimony is incomplete and does not properly reflect Mr. Parulski's testimony. Mr. Parulski has never denied that the '871 patent has claims that include limitations related to the transmission of images. Rather, consistent with the cited testimony, Mr. Parulski's position has always been that the '871 patent "simply describes the use of conventional, well-known imaging related formats and protocols such as the well-known Group-III facsimile encoding and compression, and Group-III facsimile transmission protocol, JPEG and wavelet compression and PC modems," and that "there is no detailed discussion of the designs and capabilities of the cellular telephone which connects to the cellular interface 130 in FIG. 5; Figures 6A and 6B also only show a picture of a cellular telephone 164." Ex. 1008, ¶ 18. Mr. Parulski testified to this fact during his deposition. *See* Ex. 2019 at 17:9-25.

RESPONSE TO OBSERVATION NUMBER 2

The cited testimony is incomplete and does not properly reflect Mr. Parulski's testimony. The cited testimony merely restates a portion of the

“wireless telephone” limitation of claim 12, which recites “the wireless telephone being selectively operable to accept and digitize audio signals to be transmitted, the wireless telephone being selectively operable to convert received digitized audio signals into acoustic audio, the wireless telephone being selectively operable to transmit and receive non-audio digital signals, the non-audio digital signals including a selected digitized framed image.” In addition, the cited testimony is consistent with Mr. Parulski's position regarding the description in the '871 patent of well-known and conventional cellular telephones, as discussed above with respect to Patent Owner's first observation. *See* Ex. 1008, ¶ 18; Ex. 2019 at 17:9-25.

RESPONSE TO OBSERVATION NUMBER 3

The cited testimony is incomplete and does not properly reflect Mr. Parulski's testimony. In addition, the relevant portions of Mr. Parulski's testimony do not support Patent Owner's contention that Mr. Parulski's definition of a POSITA improperly excludes experience in the design of cellular communications devices. As discussed above with respect to Patent Owner's first observation, Mr. Parulski recognizes that certain claims recite limitations related to the transmission of images and opines that the '871 patent merely describes the use of well-known and conventional cellular telephones. *See* Ex. 1008, ¶ 18; Ex. 2019 at 17:9-25. Moreover, Mr. Parulski previously described and testified that his definition of a

POSITA does not exclude experience in the design of cellular communications devices. Ex. 1008, ¶ 19; Ex. 2019 at 13:1-15:21.

RESPONSE TO OBSERVATION NUMBER 4

The cited testimony is incomplete and does not properly reflect Mr. Parulski's testimony. In addition, the relevant portions of Mr. Parulski's testimony do not support Patent Owner's contention that the definition of a POSITA must include experience related to the design of cellular communications devices or that Mr. Parulski does not qualify as an expert with respect to the '871 patent. For example, Mr. Parulski testified that "I don't believe it would be necessary to be an expert in cellular communications technologies or devices in order to be a person of ordinary skill in the art for the '871 patent," because the '871 patent relates to transmitting digital image data over standard cellular and telephone company facilities, and does not describe the details of a cellular telephone. Ex. 2019 at 17:9-25; *see also* Ex. 1008, ¶ 18. Furthermore, the cited testimony follows Mr. Parulski's position that he is a POSITA with respect to the '871 patent, even if experience in cellular communications devices is required. Ex. 2019 at 13:1-15:21; *see also* Ex. 1008, ¶¶ 10, 11, 18-20.

RESPONSE TO OBSERVATION NUMBER 5

The cited testimony is incomplete and does not properly reflect Mr. Parulski's testimony. Nor does the testimony support Patent Owner's contention

regarding the construction of “non-audio digital signals,” as recited in claim 12.

The cited testimony was part of an exchange between Patent Owner and Mr. Parulski regarding Patent Owner's position that Petitioner's construction of “non-audio digital signals” creates a redundancy. Ex. 2019 at 19:3-22:6. During this exchange, Mr. Parulski explained that there is no redundancy because “digitized frame image is one type of non-audio digital signal and that there can be other types of non-audio digital signals, such as, for example, text.” *Id.* at 19:3-13. Mr. Parulski further explained that “when it says the non-audio digital signals including a selected digitized frame image, that is being more specific in pointing to the fact that the non-audio digital signal must include a digitized frame image.” *Id.* at 21:11-22:6.

RESPONSE TO OBSERVATION NUMBER 6

The cited testimony is incomplete and does not properly reflect Mr. Parulski's testimony. The cited testimony is consistent with Mr. Parulski's statements in Paragraph 24 of the 2015 Parulski Decl. (Ex. 1008), which is that PO's interpretation of “non-audio digital signal” ignores the use of Group-III fax in the '871 patent. Mr. Parulski has never denied that some embodiments allow for conventional compression methods other than Group-III fax. Thus, the relevant portions of Mr. Parulski's testimony do not support Patent Owner's contention regarding the construction of “non-audio digital signal.” *See* Ex. 1008, ¶¶ 23, 25,

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