

RECORD OF ORAL HEARING  
UNITED STATES PATENT AND TRADEMARK OFFICE

-----

BEFORE THE PATENT TRIAL AND APPEAL BOARD

-----

SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA, INC.

Petitioner

vs.

AFFINITY LABS OF TEXAS, LLC

Patent Owner

-----

Case IPR2014-01181  
Patent 8,532,641  
Application 13/673391  
Technology Center 2600

-----

Oral Hearing Held: October 28, 2015

Before: KEVIN F. TURNER (via video), LYNNE E. PETTIGREW,  
JON B. TORNQUIST, Administrative Patent Judges

The above-entitled matter came on for hearing on Wednesday,  
October 28, 2015 at the U.S. Patent and Trademark Office, 600 Dulany  
Street, Alexandria, Virginia in Courtroom A, at 2:00 p.m.

APPEARANCES:  
ON BEHALF OF THE PETITIONER:

J. STEVEN BAUGHMAN, ESQ.  
Ropes & Gray LLP  
2099 Pennsylvania Aveue, N.W.  
Washington, D.C. 20006-6807  
202-508-4606

GABRIELLE E. HIGGINS, ESQ.  
Ropes & Gray LLP  
1900 University Avenue  
6th Floor  
East Palo Alto, CA 94303  
650-617-4000

ON BEHALF OF THE PATENT OWNER:

RYAN M. SCHULTZ, ESQ.  
EMILY E. NILES, ESQ.  
Robins Kaplan  
800 LaSalle Avenue, Suite 2800  
Minneapolis, Minnesota 55402  
612-349-9500

P R O C E E D I N G S

(2:00 p.m.)

JUDGE TORNQUIST: You may be seated. Okay.  
We are here on IPR2014-01181, Samsung versus  
Affinity Labs of Texas, which is a consolidated case with  
IPR2014-1182 and 1184.

Who do we have for Petitioner?

MR. BAUGHMAN: Your Honor, Steve Baughman  
with Gabrielle Higgins for Petitioner. And we have  
representative Michelle Yang from Samsung.

JUDGE TORNQUIST: Welcome. Patent Owner?

MR. SCHULTZ: Good afternoon, Your Honor,  
Ryan Schultz on behalf of Affinity Labs of Texas. With me is  
my colleague, Emily Niles.

JUDGE TORNQUIST: Welcome. Per our order of  
September 25th, each side will have 90 minutes to present  
argument. Petitioner bearing the ultimate burden of proof, you  
will go first. You can reserve as much time as you want for  
rebuttal.

Then we will hear from Patent Owner and then  
Petitioner's rebuttal, if any.

What I would like to address before we start off is  
Patent Owner requested in their request for oral argument  
paper 31 that they be allowed a surrebuttal specifically to the  
issue of priority.

1                   MR. SCHULTZ: Yes, everybody agrees as to  
2 priority, the Patent Owner bears the burden of proof on  
3 priority, so if the standard of protocol here at the PTAB is  
4 whoever bears the burden gets the last word on the issue, we  
5 think that it would be consistent then for us to bear the last  
6 word on the issue of priority, which Petitioners will admit that  
7 we bear the burden of proof on.

8                   JUDGE TORNQUIST: Petitioner, do you want to  
9 mention?

10                  MR. BAUGHMAN: Your Honor, I understand we  
11 have the ultimate burden of persuasion on invalidity, so we  
12 would not agree a surrebuttal is necessary here.

13                  JUDGE TORNQUIST: This actually addresses a  
14 question the Board has an interest in. Specifically who bears  
15 the burden of proof on a subsidiary issue, such as this, and  
16 whether the burden ever can shift from the Petitioner in this  
17 case.

18                  So we are going to allow a two-minute surrebuttal.  
19 I would like -- it needs to be limited specifically to the issue of  
20 burden and how that burden applies to the facts with respect to  
21 priority. Okay?

22                  MR. SCHULTZ: Understood, Your Honor. Thank  
23 you.

24                  JUDGE TORNQUIST: Okay. With that said,  
25 Petitioner do you want to start?

1 MR. BAUGHMAN: Thanks, Your Honor.

2 Your Honor, and Judge Turner, if for whatever  
3 reason I wander away from the microphone, please feel free to  
4 let me know if you can't hear.

5 May it please the Board -- sorry, Your Honor. May  
6 it please the Board, at the outset we would like to reserve 40  
7 minutes of our time, if we may, for rebuttal.

8 JUDGE TORNQUIST: Okay.

9 MR. BAUGHMAN: And Petitioners have provided  
10 our positions and evidence in our briefing. And we rely on  
11 that material to support our arguments, but to assist the Board  
12 in considering the record, we plan to address today in our  
13 opening discussion four topics, along with any questions, of  
14 course, the Board may have.

15 And we understand that our demonstratives were  
16 not required to be filed with the Board. We would make a  
17 request for permission to file those, just so that the record is  
18 complete, understanding that demonstratives are not evidence,  
19 but so that the transcript of the oral argument can reflect page  
20 numbers and so forth. We would respectfully request  
21 permission to file our demonstratives after the hearing today.

22 JUDGE TORNQUIST: Okay. We will take that  
23 under advisement after the hearing.

24 MR. BAUGHMAN: Thanks, Your Honor.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.