

Case IPR2015-00350
Petition for *Inter Partes* Review

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
AT&T MOBILITY LLC
Petitioners

v.

SOLOCRON MEDIA, LLC
Patent Owner

Case IPR2015-00350
Patent No. 7,257,395

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 7,257,395
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.***

Mail Stop: Patent Board
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I. INTRODUCTION AND BACKGROUND	1
II. NOTICES, STATEMENTS AND PAYMENT OF FEES	3
A. Real Party In Interest Under 37 C.F.R. § 42.8(b)(1).....	3
B. Related Matters Under 37 C.F.R. § 42.8(b)(2)	3
C. Lead and Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3)	3
D. Service Information Under 37 C.F.R. § 42.8(b)(4).....	4
E. Grounds for Standing Under 37 C.F.R. § 42.104(a)	4
F. Fees Under 37 C.F.R. § 42.103	4
III. THE ‘395 PATENT	5
A. Background.....	5
B. The Asserted Priority Chain of the ‘395 Patent	9
C. Prosecution History of the ‘395 Patent	10
D. Prosecution History of United States Patent No. 7,319,866	11
IV. IDENTIFICATION OF CHALLENGE UNDER 37 C.F.R. § 42.104(B).....	12
V. HOW THE CHALLENGED CLAIMS ARE TO BE CONSTRUED UNDER 37 C.F.R. § 42.104 (B) (3).....	14
VI. DETAILED EXPLANATION AND SUPPORTING EVIDENCE UNDER 37 C.F.R. §§ 42.104(B)(4) AND (B)(5).....	19
A. The Challenged Claims Are Not Entitled to Claim Priority to Any Earlier Application.....	19
1. Legal Standards Relevant to Priority	21
a. To Evaluate Invalidity Under Anticipation Or Obviousness, The Priority Date Must Be Determined Based Upon The	

Written Description Requirement	21
b. Adequate Written Description Requires Express Or Inherent Disclosure And Identification Of The “Blaze Marks” Of Later-Claimed Characteristics.	23
2. The Priority Applications Do Not Reasonably Convey That the Inventor Possessed “Polyphonic Audio Files.”	25
a. The Priority Applications Lack Actual or Inherent Written Description for “Polyphonic Audio Files.”	25
b. The Inventor Did Not Provide The Requisite Blaze Marks For Polyphonic Audio Files.....	28
c. Solocron Is Estopped From Asserting Priority Because It Distinguished The Prior Art As Lacking the Same Disclosure That the Priority Applications Lack.....	31
d. Solocron’s New Litigation Citations Similarly Do Not Show That The Inventor Had Possession Of The Concept Of Polyphonic Audio File In The Priority Applications.....	33
B. Claims 30, 36, 39, and 40 are Anticipated by the 3510 UG.	35
C. Claims 30, 39, and 40 Are Anticipated by Holm.....	42
D. Claim 36 is Rendered Obvious by Holm in view of McCarthy.....	52
E. Claims 30, 36, 39, and 40 are Rendered Obvious by the Shanahan PCT Application in view of Futamase	53
F. Claims 30, 36, 39, and 40 are Rendered Obvious by the 3510 UG in View of Perez.....	57
G. Claims 30, 39, and 40 are Rendered Obvious by Holm in View of Perez..	59
VII. CONCLUSION	60

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Agilent Techs., Inc. v. Affymetrix, Inc.</i> , 567 F.3d 1366 (Fed. Cir. 2009)	26, 27
<i>Anascape, Ltd. v. Nintendo of Am., Inc.</i> , 601 F.3d 1333 (Fed. Cir. 2010)	24
<i>Bradford Co v. Conteyor N. Am., Inc.</i> , 603 F.3d 1262 (Fed. Cir. 2010)	32
<i>Carnegie Mellon Univ. v. Hoffman-La Roche Inc.</i> , 541 F.3d 1115 (Fed. Cir. 2008)	1
<i>Chiron Corp. v. Genentech, Inc.</i> , 363 F.3d 1247 (Fed. Cir. 2004)	23
<i>Enzo Biochem, Inc. v. Gen-Probe Inc.</i> , 323 F.3d 956 (Fed. Cir. 2002)	22
<i>Hitzeman v. Rutter</i> , 243 F.3d 1345 (Fed. Cir. 2001)	26
<i>Hollmer v. Harari</i> , 681 F.3d 1351 (Fed. Cir. 2012)	21
<i>Hyatt v. Boone</i> , 146 F.3d 1348 (Fed. Cir. 1998)	24
<i>Lockwood v. Am. Airlines, Inc.</i> , 107 F.3d 1565 (Fed. Cir. 1997)	22
<i>Markman v. Westview Instruments, Inc.</i> , 517 U.S. 370 (1996).....	16, 17, 18
<i>Microsoft Corp. v. Multi-Tech Sys., Inc.</i> , 357 F.3d 1340 (Fed. Cir. 2004)	16, 32

Case IPR2015-00350
Petition for *Inter Partes* Review

<i>In re NTP, Inc.</i> , 654 F.3d 1268 (Fed. Cir. 2011)	21
<i>PowerOasis, Inc. v. T-Mobile USA, Inc.</i> , 522 F.3d 1299 (Fed. Cir. 2008)	<i>passim</i>
<i>Purdue Pharma L.P. v. Faulding Inc.</i> , 230 F.3d 1320 (Fed. Cir. 2000)	25, 28, 30
<i>Research Corp. Techs., Inc. v. Microsoft Corp.</i> , 627 F.3d 859 (Fed. Cir. 2010)	23
<i>Tronzo v. Biomet, Inc.</i> , 156 F.3d 1154 (Fed. Cir. 1998)	21, 23
<i>Univ. of Rochester v. G.D. Searle & Co.</i> , 358 F.3d 916 (Fed. Cir. 2004)	22

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.