

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD; SAMSUNG ELECTRONICS
AMERICA, INC.; SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC; LG ELECTRONICS, INC.; LG ELECTRONICS
U.S.A., INC.; LG ELECTRONICS MOBILECOMM USA, INC.;
HTC CORP., and HTC AMERICA, INC.
Petitioners

v.

AFFINITY LABS OF TEXAS, LLC
Patent Owner

Case IPR2014-00209
Patent 7,953,390 B2

Before KEVIN F. TURNER, LYNNE E. PETTIGREW, and
JON B. TORNQUIST, *Administrative Patent Judges*.

TORNQUIST, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

On December 2, 2013, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Samsung Telecommunications America, LLC, LG Electronics, Inc., LG Electronics U.S.A., Inc., LG Electronics Mobilecomm USA, Inc., HTC Corp., and HTC America, Inc. (“Petitioners”) filed a Petition for *inter partes* review of claims 16, 19, and 20 of U.S. Patent 7,953,390 B2 (“the ’390 patent”). Paper 1. On December 12, 2013, Petitioners filed a corrected Petition. Paper 11 (“Pet.”). The owner of the ’390 patent, Affinity Labs of Texas, LLC (“Patent Owner”), filed a Preliminary Response to the Petition on March 7, 2014. Paper 19 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides:

THRESHOLD – The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Upon consideration of the Petition and the Preliminary Response, we determine that there is a reasonable likelihood that Petitioners would prevail with respect to claims 16, 19, and 20 of the ’390 patent. Accordingly, pursuant to 35 U.S.C. § 314, we authorize an *inter partes* review to be instituted as to those claims.

A. *Related Proceedings*

The ’390 patent is being asserted in *Affinity Labs of Texas, LLC v. Samsung Electronics Co., Ltd.*, No. 1:12-cv-557 (E.D. Tex.). Paper 18. The ’390 patent is also the subject of pending *inter partes* review petition

IPR2014-00212. *Id.*; Pet. 8.

B. Prior Art Relied Upon

Petitioners rely on the following prior art references:

Galensky	US 6,845,398 B1	Jan. 18, 2005	Ex. 1003
Bork	US 6,633,932 B1	Oct. 14, 2003	Ex. 1004
Boys	US 6,314,094 B1	Nov. 6, 2001	Ex. 1005
Aaron	US 4,345,147	Aug. 17, 1982	Ex. 1006
Ravi	US 6,292,834 B1	Sep. 18, 2001	Ex. 1007
Carmel	US 6,389,473 B1	May 14, 2002	Ex. 1008

C. The Asserted Grounds

Petitioners assert the following grounds of unpatentability (Pet. 9):

References	Basis	Claims
Galensky and Bork	§103	16, 19, and 20
Galensky, Bork, and Carmel	§103	19
Boys, Aaron, and Ravi	§103	16, 19, and 20
Boys, Aaron, Ravi, and Carmel	§103	19

D. The '390 Patent

The '390 patent is directed to a delivery system for digitally stored content. Ex. 1001, 1:17-19. In particular, the '390 patent relates to the wireless delivery of media content, such as songs, video, on-line radio stations, on-line broadcasts, and text. *Id.* at 2:55-59, 3:10-15, 3:37-39, 14:41-44.

Many different wireless devices may be used to select and receive media content in the system and method of the '390 patent, including “a

network radio, a modular device, an audio system, a personal digital assistant (PDA), a cellular phone, or other electronic devices operable to receive information wirelessly.” *Id.* at 4:29-32. In at least one embodiment, the wireless device contains a physical interface that allows a different electronic device simultaneously to communicate with, and to recharge the battery of, the wireless device using a single cable having multiple conductive elements. *See id.* at 17:18-62, 20:9-20.

In one embodiment of the ’390 patent, a user selects desired audio information from a webpage. *Id.* at 14:34-44. This audio information may include “a single song, a plurality [of] different songs,” or “an entire album.” *Id.* at 14:42-44. After the user finishes selecting the desired songs, the system creates both a playlist and a listing of “network or URL locations” where the songs on the playlist may be found. *Id.* at 14:44-53. The songs on the playlist then are retrieved from one or more of the listed network locations and streamed to the user. *Id.* at 5:58-6:10, 14:50-61, 15:46-51.

The selected songs may be streamed to a user over a high-speed wireless communications network. *Id.* at 5:64-6:7. In this embodiment, selected content is delivered initially to the wireless device at a high transmission rate. *Id.* Once a sufficient buffer has been established in the memory of the wireless device, the rest of the selected content then is transmitted at a second, slower rate. *Id.*

E. *Illustrative Claims*

Of the challenged claims, only claim 16 is independent. Claim 16 and dependent claim 19 are illustrative of the claims at issue and are reproduced below:

16. A system for content delivery, comprising:
a portable device having a display, a local rechargeable battery,

a wireless communication system, and a processor;

a physical interface of the portable device, the physical interface configured to connect to an interface system that includes a cable having multiple conductive elements, wherein the physical interface is designed such that a different electronic device can be communicatively coupled with the physical interface of the portable device using the interface system in a manner that allows the different electronic device to recharge the local rechargeable battery using at least one of the multiple conductive elements and to communicate with the portable device using at least one other of the multiple conductive elements; and

a computer-readable medium having stored instructions that when executed are operable to cause the processor: (1) to present an icon on the display, the icon associated with content that is deliverable as streaming media; (2) to recognize a selection of the icon; and (3) to switch between a set of communication rates at which the portable device receives a first portion and a second portion of the content, wherein the set of communication rates comprise at least a first data rate and a second data rate that is slower than the first data rate.

19. The system of claim 16, wherein the stored instructions are further operable to cause the processor: (1) to obtain a listing of network locations at which to access the streaming media; and (2) to cause a first of the network locations to be accessed to facilitate a streaming delivery of the streaming media.

(line breaks added for readability).

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, “[a] claim in an unexpired patent shall be given its broadest reasonable construction in light of the specification of the

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