Trials@uspto.gov
571-272-7822

Paper 41
Date Entered: August 19, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SAMSUNG ELECTRONICS CO., LTD., and SAMSUNG DISPLAY CO., LTD.,
Petitioner,

v.

SURPASS TECH INNOVATION LLC,
Patent Owner.

Case IPR2015-00863
Patent 7,202,843 B2

Before SALLY C. MEDLEY, BRYAN F. MOORE, and BETH Z. SHAW, *Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons that follow, we enter adverse judgment against Patent Owner with respect to claims 4, 8, and 9 of U.S.

Patent No. 7,202,843 B2; determine that Petitioner has shown by a preponderance of the evidence that claims 5 and 6 of U.S. Patent No. 7,202,843 B2 are unpatentable; and determine that Petitioner has not shown by a preponderance of the evidence that claim 7 of U.S. Patent No. 7,202,843 B2 is unpatentable.

A. Procedural History

Petitioner, Sony Corporation, Samsung Electronics Corporation, and Samsung Display Corporation, filed a Petition requesting an *inter partes* review of claims 4–9 of U.S. Patent No. 7,202,843 B2 (Ex. 1001, "the '843 patent"). Paper 4 ("Pet."). Patent Owner, Surpass Tech Innovation LLC, filed a Preliminary Response. Paper 10 ("Prelim. Resp."). Upon consideration of the Petition and Preliminary Response, on September 8, 2015, we instituted an *inter partes* review of claims 4–9, pursuant to 35 U.S.C. § 314. Paper 11 ("Dec.").

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 21 ("PO Resp.")) and Petitioner filed a Reply (Paper 27 ("Pet. Reply")). Petitioner filed a Motion to Exclude (Paper 30; "Pet. Mot. Exclude") Exhibit 2007 and Paragraph 39 of Exhibit 2022. Patent Owner filed an Opposition to the Motion to Exclude (Paper 32; "PO Exclude Opp."), and Petitioner filed a Reply (Paper 33; "Pet. Exclude Reply").

An oral hearing was held on May 12, 2016, and a transcript of the hearing is included in the record (Paper 40; "Tr."). On May 13, 2016, Patent Owner was ordered to show cause why judgment should not be entered against it with respect to claims 4, 8, and 9 of the '843 patent. *See* 37 C.F.R. § 42.73(b)(3). Paper 38 ("Order"). On May 23, 2016, Patent Owner responded to the Order. Paper 39 ("Response").

B. Related Proceedings

According to Petitioner, the '843 patent is involved in the following lawsuit: *Surpass Tech Innovation LLC v. Samsung Display Co., Ltd. et al.*, No. 14-cv-00337-LPS (D. Del.). Pet. 1.

C. The '843 Patent

The '843 patent relates to a method and system for driving an LCD panel. The panel includes a plurality of scan lines, a plurality of data lines, and a plurality of pixels. Each pixel is connected to a corresponding scan line and a corresponding data line, and each pixel includes a liquid crystal device and a switching device connected to the corresponding scan line, data line, and liquid crystal device. Ex. 1001, 2:19–26, Fig. 4. The system includes a driving circuit for applying a plurality of data impulses to a pixel electrode within one frame period to control the transmission rate of the liquid crystal device. *Id.* at 1:8–12, 4:34–40.

D. Illustrative Claim

Independent claim 4 is illustrative and reproduced below. Claims 5–9 depend either directly or indirectly from claim 4.

Claim 4, reproduced below, is illustrative.

> 4. A method for driving a liquid crystal display (LCD) panel, the LCD panel comprising:
> a plurality of scan lines;
> a plurality of data lines; and
> a plurality of pixels, each pixel being connected to a corresponding scan line and a corresponding data line, and each pixel comprising a liquid crystal device and a switching device

connected to the corresponding scan line, the corresponding data line, and the liquid crystal device, and

the method comprising:

receiving continuously a plurality of frame data;

generating a plurality of data impulses for each pixel within every frame period according to the frame data; and

applying the data impulses to the liquid crystal device of one of the pixels within one frame period via the data line connected to the pixel in order to control a transmission rate of the liquid crystal device of the pixel.

Id. at 7:1–19.

E. Grounds of Unpatentability

We instituted trial based on the sole ground that claims 4–9 are unpatentable under 35 U.S.C. § 103(a) based on Suzuki[1] and Nitta.[2] Dec.

II. ANALYSIS

A. Entry of Adverse Judgment as to claims 4, 8, and 9

Claims 4–9 of the '843 patent are the sole claims involved in this proceeding. Dec. On February 26, 2016, claims 4, 8, and 9 were determined unpatentable in a related proceeding. *See, Sharp Corp. v. Surpass Tech Innovation LLC*, IPR2015-00021 (PTAB February 26, 2016), Paper 44 ("Final Written Decision"). Just prior to the scheduled hearing date for this proceeding, and on May 3, 2016, Patent Owner filed an updated mandatory notice indicating that the deadline to file a notice of appeal of the Final Written Decision in IPR2015-00021 had expired and that Patent

[1] U.S. Patent Application Publication 2003/0156092 A1, published Aug. 21, 2003 (Ex. 1003) ("Suzuki").
[2] Japanese Laid-Open Application No. 2002-132224, published May 9, 2002 (Ex. 1005) ("Nitta").

Owner had not filed a notice of appeal. Paper 35.

During the May 12, 2016, hearing, counsel for Patent Owner implied that Patent Owner would take no action to appeal the Final Written Decision in IPR2015-00021, that the time to do so had expired, and that claims 4, 8, and 9 are unpatentable. Tr. 3–5. Based on such representations, and on May 13, 2016, Patent Owner was ordered to show cause why judgment should not be entered against it as to claims 4, 8, and 9 of U.S. Patent No. 7,202,843 B2 ("the '843 patent"). *See* 37 C.F.R. § 42.73(b)(3). Paper 38 ("Order"). On May 23, 2016, Patent Owner responded to the Order. Paper 39 ("Response").

In the Response, Patent Owner argues there is no Article III standing to adjudicate the patentability of claims 4, 8, and 9. Response 2–4. In particular, Patent Owner argues that because claims 4, 8, and 9 are unpatentable, the Patent Owner would have no Article III standing to appeal any judgment entered here. Response 2–3. Patent Owner argues that we should not enter adverse judgment against it in this case, but instead terminate the proceeding with respect to claims 4, 8, and 9 as moot. *Id.* at 4.

Patent Owner's arguments are not persuasive. Patent Owner has not shown how its alleged lack of standing post judgment bears on whether we should enter judgment in the first instance in this proceeding. Patent Owner does not assert, or provide supporting legal authority to show that we lack authority in the first instance to enter adverse judgment against Patent Owner based on the circumstances before us. Importantly, Patent Owner's arguments that it would not have Article III standing post judgment or that

DOCKET ALARM

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.