

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

COMARCO WIRELESS TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2015-01879
Patent 8,492,933 B2

Before BRIAN J. McNAMARA, PATRICK M. BOUCHER, and
GARTH D. BAER, *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

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

Apple Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1 and 2 (the “challenged claims”) of U.S. Patent No. 8,492,933 B2 (Ex. 1001, “the ’933 patent”). Patent Owner, Comarco Wireless Technologies, Inc. (“Patent Owner”), filed a Preliminary Response. Paper 13 (“Prelim. Resp.”).

Pursuant to 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless “the information presented in the petition . . . and any response . . . 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.” For the reasons set forth below, we conclude that there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of the challenged claims. Therefore, we institute *inter partes* review of the challenged claims.

I. BACKGROUND

A. RELATED PROCEEDINGS

The parties assert the ’933 patent is involved in *Comarco Wireless Technologies, Inc. v. Apple Inc.*, Case No. 8:15-cv-00145-AG, currently pending in the United States District Court for the Central District of California. Pet. 2; Paper 5, 1.

B. THE ’933 PATENT

The ’933 patent is directed to power supply equipment for electronic devices. Ex. 1001, Abstract. Figure 3 of the ’933 patent is reproduced below:

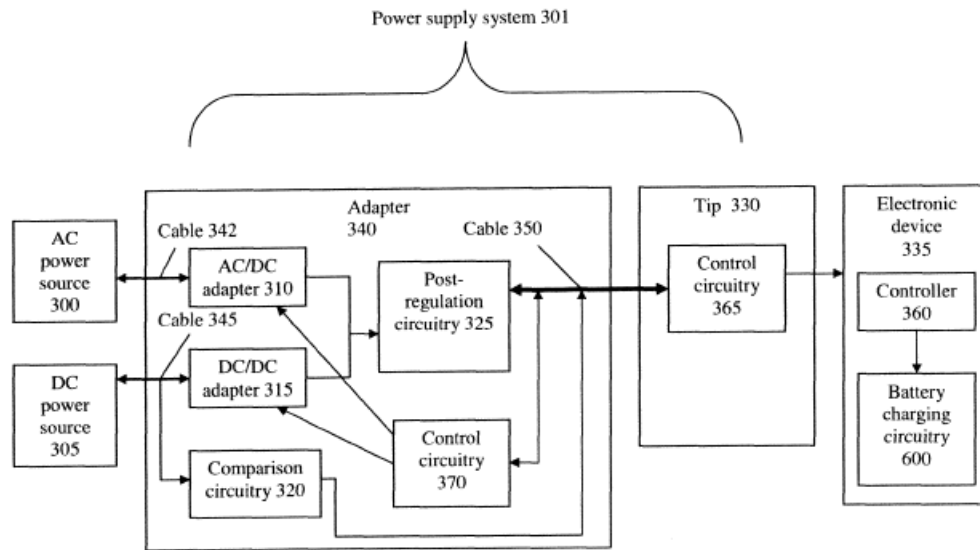


FIG. 3

Figure 3 depicts a power supply system for use with either AC or DC power source 300 or 305, which is connected to adapter 340, which is then connected via cable 350 to tip 330, which provides power to electronic device 335. *Id.* at 3:37–57, 4:19–54. According to the '933 patent, circuitry in adapter 340 may output a signal based on information about the power source, and that signal may be sent via cable 350 to tip 330 and then on to electronic device 335. *Id.* at 4:43–54. Based on the signal, the electronic device may control the amount of power drawn to prevent overheating. *Id.* at 3:26–28, 4:54–63. The '933 patent explains also that tips “may be removable from the cable 350” and “may have different shapes and sizes, depending [on] the shape and sizes of the power input openings of the respective electronic devices 335 being powered.” *Id.* at 3:55–60.

C. CHALLENGED CLAIMS

Challenged claims 1 and 2 of the '933 patent recite as follows:

1. Power supply equipment comprising:

an adapter to convert power from a power source, external to the adapter, to DC power for powering an electronic device, the adapter including circuitry for producing an analog data signal for use by the electronic device to control an amount of power drawn by the electronic device; and

a cable having proximal and distal ends, the proximal end being electrically coupled to the adapter and the distal end terminating in an output connector, the output connector including:

a plurality of conductors to transfer the DC power and the analog data signal to the electronic device; and

circuitry to receive a data request from the electronic device and in response transmit a data output to the electronic device to identify the power supply equipment to the electronic device.

2. The power supply equipment of claim 1 wherein the output connector can be detached from the cable.

Ex. 1001, 10:34–52.

D. ASSERTED PRIOR ART

The Petition relies on the following prior art references, as well as a supporting Declaration from Nathaniel J. Davis IV, Ph.D. (Ex. 1010): U.S. Patent No. 7,243,246 B2 (issued July 10, 2007) (Ex. 1003, “Allen”); U.S. Patent No. 7,296,164 B2 (issued Nov. 13, 2007) (Ex. 1004, “Breen”); U.S. Patent No. 6,054,846 (issued Apr. 25, 2000) (Ex. 1005, “Castleman”); European Patent Application Publication No. EP 1487081 (published Dec. 15, 2004) (Ex. 1006, “Veselic”); U.S. Patent No. 5,649,001 (issued July 15, 1997) (Ex. 1007, “Thomas”).

E. ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner asserts the following grounds of unpatentability. Pet. 3.

Reference(s)	Basis	Challenged Claims
Allen	§ 103(a)	1 and 2
Allen, Breen, and Castleman	§ 103(a)	1 and 2
Veselic and Thomas	§ 103(a)	1 and 2

II. ANALYSIS

A. CLAIM CONSTRUCTION

Based on the current record, we conclude that no express claim construction is necessary for our determination of whether to institute *inter partes* review of the challenged claims. See *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (“[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”).

B. ASSERTED PRIOR ART

1. *Allen (Ex. 1003)*

Allen discloses power supply equipment for managing power to an electronic device. Ex. 1003, Abstract, 1:10–18. Allen’s Figure 4 is reproduced below:

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