

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

DSS TECHNOLOGY MANAGEMENT, INC.,
Patent Owner.

Case IPR2016-00782
Patent 6,784,552 B2

Record of Oral Hearing
Held: June 20, 2017

Before: BRYAN F. MOORE, BRIAN J. McNAMARA, and
MINN CHUNG, *Administrative Patent Judges*.

Case IPR2016-00782
Patent 6,784,552 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF PATENT OWNER:

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The above-entitled matter came on for hearing on Tuesday, June 20, 2017, commencing at 1:30 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P R O C E E D I N G S

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3 JUDGE McNAMARA: Good afternoon, everyone.
4 This is the oral hearing in case IPR2016-00782. I am Judge
5 McNamara, with me is Judge Moore. Judge Chung is
6 participating remotely, so I would ask everyone to make sure that
7 they put any demonstratives or anything they use, limit that to
8 what's already been filed so he can look at it, and to speak into the
9 microphone so that Judge Chung can hear everything.

10 Beginning with the Petitioner, can I have the parties
11 introduce themselves.

12 MR. BOBROW: Yes, good afternoon. My name is
13 Jared Bobrow, counsel for the Petitioner, Samsung Electronics.
14 With me at counsel table is Robert Magee, also counsel. And
15 James Shin from Samsung is also here as well. Thank you.

16 JUDGE McNAMARA: Thank you. Patent Owner?

17 MR. GUMINA: Good afternoon, Your Honor. My
18 name is Jim Gumina, I am counsel for DSS and I will be arguing
19 today.

20 JUDGE McNAMARA: Great. Well, welcome to the
21 Patent Trial and Appeal Board. Each party will have 30 minutes
22 total of argument time. The Petitioner will go first, since the
23 burden of proof is on the Petitioner. The Patent Owner can then
24 argue its opposition to the Petitioner's case, and the Petitioner will
25 then get one more shot with any time it reserves for rebuttal.

1 So I assume everyone is ready to begin, so let's get
2 started.

3 MR. BOBROW: Very good.

4 JUDGE McNAMARA: Is there some amount of time
5 you would like me to alert you to?

6 MR. BOBROW: Yes, if you can alert me when we hit
7 the 15-minute mark, I would appreciate it.

8 JUDGE McNAMARA: All right. Please proceed.

9 MR. BOBROW: Thank you very much, Your Honors.
10 After the course of briefing in this case, I think it's fair to say that
11 the issues in dispute have really come down to three, and I'm
12 referring now to slide 3 in the PowerPoint deck that we filed the
13 other day. The first issue relates to the Kuesters reference, that's
14 the principal reference in the petition. And the first issue really is
15 whether Kuesters discloses the claimed angle, the angle between
16 the edge of the sidewall spacer, and the substrate. Issue number
17 one.

18 Issue number two pertains to the argument made by the
19 Patent Owner that various embodiments and limitations in the
20 specification, as they pertain to material size, process conditions
21 and the like, should be read into the -- into the claims.

22 And last, it relates to a combination, an obvious
23 combination set forth in grounds 3 and 4, there is a -- an error in
24 bullet number 3 there. This pertains to claims 1 through 7, it
25 doesn't pertain to 8 through 12. So it's only 1 through 7. And as

1 it pertains to that, the argument made by the Patent Owner was
2 that somehow Heath did not teach, along with Kuesters, the
3 invention.

4 In summary, with respect to the first issue, it's very clear
5 in Kuesters that the claimed angle is disclosed. It's set forth in an
6 SEM image, and a person of ordinary skill in the art has presented
7 the only evidence, the only evidence of what that image discloses,
8 and Dr. Fair, a chaired professor at Duke University, evaluated it
9 and set forth that it indeed disclosed to a person of ordinary skill
10 an angle greater than 85 degrees.

11 On the second, Petitioner's arguments are simply
12 unfounded. They seek to read in limitations from the
13 specification which is improper. Particularly here, there has been
14 no disavow, there is no disclaimer, and the specification indeed
15 supports the view that these claims are indeed open-ended.

16 And then last, with respect to Heath, the argument that
17 the Patent Owner makes is a strawman, in the sense they attack
18 Heath as it pertains to a sidewall spacer, and yet Petitioner's
19 combination doesn't rely upon Heath for the sidewall spacer, it
20 relies on Kuesters.

21 So, those will be the focus of the argument that I make
22 today. And so if we might turn to -- we can just jump straight
23 ahead to slide 11, and slide 11, as it pertains to the first issue,
24 Kuesters' disclosure of the claimed angle. You can see in slide 11
25 the SEM image that adheres in Kuesters. This is figure 4a, and

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