

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

UUSI, LLC d/b/a NARTRON,
Patent Owner.

Case IPR2016-00908
Patent No. 5,796,183

**PATENT OWNER'S BRIEF IN RESPONSE TO
PAPER NUMBER 41**

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I. INTRODUCTION

The Federal Circuit remanded this matter to the Board because the Board’s Final Written Decision (“FWD”) did not (1) expressly construe the phrase in the challenged claims of U.S. Patent No. 5,796,183 reciting: the “microcontroller selectively providing signal output frequencies to . . . a keypad,” and (2) did not institute on challenged claims 37-39. After construing the “selectively providing” term, the Federal Circuit directed the Board to consider, applying the Federal Circuit’s construction, whether a person of ordinary skill in the art (“POSITA”) would have reasonably expected to successfully combine Samsung’s proposed three-way prior art combination (Ingraham, Caldwell and Gerpheide) to achieve the invention claimed in the ’183 patent. The Federal Circuit also directed the Board to consider whether Samsung met its burden to prove obviousness of claims 37-39.

Applying the Federal Circuit’s construction of “selectively providing signal output frequencies,” Samsung’s evidence still fails to prove, by a preponderance of the evidence, that the three-way prior art combination renders any challenged claim obvious. And Samsung still fails to prove that claims 37-39 are obvious under the Board’s correct claim construction of “supply voltage.”

1. Samsung lacks evidence that a POSITA would have had a reasonable expectation of success in combining Gerpheide with Ingraham and Caldwell, under the Federal Circuit’s construction of “selectively providing signal output

frequencies.” In its FWD, the Board implicitly read the “selectively providing” term in a manner entirely consistent with the Federal Circuit’s construction. Samsung’s Petition acknowledged that “selectively providing,” in the ’183 patent, requires selection from multiple possible frequencies—just as the Federal Circuit later agreed. With this reading, Samsung’s Petition relied on Gerpheide to satisfy the “selectively providing” limitation. But the Board, applying Samsung’s acknowledged reading of “selectively providing,” concluded that Samsung failed to prove that a POSITA would have reasonably expected to successfully combine Gerpheide’s selection of a frequency from multiple possible frequencies with an Ingraham-Caldwell touch pad array. Paper 35 at 22-24.

Nothing in the Federal Circuit’s construction of “selectively providing signal output frequencies” changes Samsung’s failure to establish a reasonable expectation of success in combining Gerpheide’s frequency selection with Ingraham and Caldwell. To the contrary, Samsung’s evidence remains lacking, for two separate reasons. First, Gerpheide’s technique of avoiding noise by selecting from multiple possible frequencies, in a “mesh” of touch pad electrodes, would not work with the discrete array of capacitive touch pads in the proposed Caldwell-Ingraham system. Second, Gerpheide’s noise-avoidance scheme, which selects from multiple possible frequencies, can only work if a synchronous (*i.e.*, frequency-selective) detector is used. But neither Ingraham nor Caldwell uses a frequency-selective detector; both

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