

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLE, INC., HTC CORPORATION, HTC AMERICA, INC.,  
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MOBILE, INC., SAMSUNG ELECTRONICS CO., LTD., SAMSUNG  
ELECTRONICS AMERICA, INC., AND ZTE (USA) INC.,  
PETITIONER,

v.

EVOLVED WIRELESS LLC,  
PATENT OWNER.

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Cases IPR2016-01208 and IPR2016-01209  
Patent 7,746,916 B2

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Record of Oral Hearing  
Held: September 15, 2017

Before CHRISTOPHER L. CRUMBLEY, PATRICK M. BOUCHER,  
AND TERRENCE W. MCMILLIN, *Administrative Patent Judges*.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ALSO PRESENT:

BAILE XIE  
ROB LYTLE  
CHARLES MCMAHON  
MELISSA DUCCA  
KEN GRAY

The above-entitled matter came on for hearing on Friday, September 15, 2017, commencing at 10:02 a.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia in Courtroom A.

PROCEEDINGS

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2 JUDGE MCMILLIN: We are here today for the oral  
3 argument in IPR2016-01208. IPR2016-01277 has been  
4 consolidated with that proceeding. And we are here for the  
5 argument in IPR2016-01209. IPR2016-01280 has been  
6 consolidated with that proceeding.

7 Can we please have the appearances of counsel first  
8 for the Petitioner and please also tell us who you represent.

9 MR. RENNER: Thank you. And good morning, Your  
10 Honors. I'm Karl Renner, and I'm here as lead counsel as  
11 well representing Microsoft entities and Apple. Joined by  
12 Rob Devoto and Baile Xie and also by representatives from  
13 Microsoft, Rob Lytle; ZTE, Charles McMahon; and Samsung,  
14 Melissa Ducca.

15 JUDGE MCMILLIN: Is that everyone?

16 MR. RENNER: That's us.

17 JUDGE MCMILLIN: Who will be speaking on behalf of  
18 Petitioners today?

19 MR. RENNER: Thanks for asking. Rob Devoto will be  
20 speaking, Your Honor.

21 JUDGE MCMILLIN: Thank you.

22 And Patent Owner?

23 MR. SCHULTZ: Good morning, Your Honor. Ryan  
24 Schultz on behalf of the Patent Owner. With me is my  
25 colleague Dr. Miles Finn and representative Ken Gray from

1 Evolved Wireless.

2 Miles Finn will be doing the argument this morning.

3

4 JUDGE MCMILLIN: Thank you.

5 Before we start, I had a question. The Patent  
6 Owner response indicates that Patent Owner is no longer  
7 contesting the validity of Claims 1 through 5. What does  
8 that mean?

9 JUDGE CRUMBLEY: I guess the question -- to be more  
10 blunt about it, are you conceding the unpatentability of  
11 those Claims? Should we -- no matter what we do on 6 through  
12 10, should we enter judgment against you on 1 through 5?

13 JUDGE MCMILLIN: And even more specifically, how do  
14 you wish us to treat Claims 1 through 5 in the  
15 final written decision, should we enter judgment against you,  
16 could we do that immediately? What --

17 MR. SCHULTZ: Well, they still bear the burden of  
18 proof so --

19 JUDGE MCMILLIN: Yes.

20 MR. SCHULTZ: -- if the board believes that what  
21 they set forth is sufficient to satisfy that burden, then the  
22 board is free to enter in that judgment. Our arguments are  
23 just focused on Claims 6 and on. We didn't make any  
24 arguments as to Claims 1 through 5.

25 JUDGE CRUMBLEY: So you're not conceding the  
26 patentability, you just haven't presented arguments on that

1 side, but you still consider it their burden to meet all  
2 the --

3 MR. SCHULTZ: That's correct.

4 JUDGE CRUMBLEY: Okay. I think that was just -- we  
5 wanted that clarification going forward.

6 MR. SCHULTZ: Okay.

7 JUDGE MCMILLIN: So you're not requesting judgment  
8 against --

9 MR. SCHULTZ: No, we are not.

10 JUDGE MCMILLIN: Thank you.

11 MR. SCHULTZ: Yeah.

12 JUDGE MCMILLIN: Petitioner, we have --  
13 Petitioners, excuse me, we have allocated 60 minutes for your  
14 argument. You are allowed to reserve time to speak after  
15 Patent Owner's presentation, do you wish to do so?

16 MR. DEVOTO: We do indeed. We'd like to reserve 20  
17 minutes of time for rebuttal.

18 JUDGE MCMILLIN: Thank you.

19 MR. DEVOTO: Shall we begin?

20 JUDGE MCMILLIN: Sure. Please. Thank you.

21 MR. DEVOTO: Good morning, Your Honors. If we  
22 could switch to Slide 2 -- actually, let's jump all the way  
23 to Slide 3, please.

24 While we've already discussed the overview of the  
25 state of the proceedings at this point in time, it's worth  
26 just reiterating that the Patent Owner no longer addresses

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