

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

EVOLVED WIRELESS LLC,
PATENT OWNER.

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

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:

ROBERTO J. DEVOTO, ESQUIRE
W. KARL RENNER, ESQUIRE
Fish & Richardson, P.C.
1425 K Street, NW
11th Floor
Washington, D.C. 20005
202.626.6393

ON BEHALF OF THE PATENT OWNER:

MILES A. FINN, PH.D., ESQUIRE
RYAN M. SCHULTZ, ESQUIRE
Robins Kaplan, LLP
299 Park Avenue
Suite 3600
New York, New York 10022
212.980.7439

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

1 - - - - -

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

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.