
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SONY MOBILE COMMUNICATIONS (USA) INC.,
SONY MOBILE COMMUNICATIONS AB, and SONY MOBILE
COMMUNICATIONS, INC.,
Petitioners

v.

CREATIVE TECHNOLOGY LIMITED,
Patent Owner

U.S. Patent No. 6,928,433

Case No. IPR2016-01407

**PATENT OWNER'S MOTION FOR
OBSERVATIONS ON CROSS-EXAMINATION**

Creative Technology Ltd. (“Patent Owner”) submits this motion for observations regarding the cross-examination of Dr. Benjamin B. Bederson.

A. Dr. Bederson’s Admissions Regarding the Problem Being Solved

Observation #1: In Ex. 2045 at page 20, lines 14-17, Dr. Bederson testified that “I don’t recall disagreeing with any characterization that Mr. Bear made of the ’433 patent’s technical description.” This testimony is relevant to pages 2-3 and 6-9 of Petitioners’ Reply (Paper 25) and paragraph 3 of Dr. Bederson’s Reply Declaration (Ex. 1020), where Dr. Bederson asserts that “I do not understand the ’433 patent to have presented any new solution to any problem.” This testimony is relevant because it shows that Dr. Bederson does not dispute Mr. Bear’s description of the problems that the ’433 patent solves.

Observation #2: In Ex. 2045 at page 21, lines 18-21, Dr. Bederson was asked “And in your declaration, you don’t offer an alternative interpretation of the ’433 patent as solving a different problem, correct?” In response, Dr. Bederson testified “No, I don’t think I do.” This testimony is relevant to pages 2-3 and 6-9 of Petitioners’ Reply (Paper 25) and paragraph 3 of Dr. Bederson’s Reply Declaration (Ex. 1020), where Dr. Bederson asserts that “I do not understand the ’433 patent to have presented any new solution to any problem.” This testimony is relevant because it shows that Dr. Bederson does not dispute Mr. Bear’s description of the problems that the ’433 patent solves.

B. Deficiencies in Dr. Bederson's Analysis of ISO 9241-14

Observation #3: In Ex. 2045 at page 28, lines 9-16, Dr. Bederson did not dispute that the scope of ISO9241-14 is expressly described as “recommendations for menus used in user-computer dialogues to accomplish typical office tasks.”

This testimony is relevant to pages 6-9 of Petitioners' Reply (Paper 25) and paragraph 9 of Dr. Bederson's Reply Declaration (Ex. 1020), where Dr. Bederson asserts that “It is therefore my understanding (confirmed by ISO9241-14) that, at the time of the invention, both the ‘problem’ Patent Owner alleges was solved by the '433 patent, and the ‘key solution’ Patent Owner argues is presented by the '433 patent, were known in the art.” This testimony is relevant because it shows that ISO9241-14's express “scope” is limited to “typical office tasks.”

Observation #4: In Ex. 2045 at page 38, lines 8-16, Dr. Bederson testified that he “do[esn't] think that this part [i.e., part 14 of ISO9241] specifically describes whether the VDTs [video display terminals] are portable or not.” This testimony is relevant to pages 6-9 of Petitioners' Reply (Paper 25) and paragraph 9 of Dr. Bederson's Reply Declaration (Ex. 1020), where Dr. Bederson asserts that “It is therefore my understanding (confirmed by ISO9241-14) that, at the time of the invention, both the ‘problem’ Patent Owner alleges was solved by the '433 patent, and the ‘key solution’ Patent Owner argues is presented by the '433 patent, were known in the art.” This testimony is relevant because it shows that one of

skill in the art would not have relied on ISO9241-14's disclosures in designing a user interface for a portable media player in light of the document's failure to discuss or disclose any applicability to portable devices.

Observation #5: In Ex. 2045 at page 42, lines 2-8, Dr. Bederson was asked "Alphanumeric keyboard, function keys, cursor keys are all input devices that are present on conventional desktop computers, correct?" In response, Dr. Bederson answered "I think there they're sometimes present on conventional computers." This testimony is relevant to pages 6-9 of Petitioners' Reply (Paper 25) and paragraph 9 of Dr. Bederson's Reply Declaration (Ex. 1020), where Dr. Bederson asserts that "It is therefore my understanding (confirmed by ISO9241-14) that, at the time of the invention, both the 'problem' Patent Owner alleges was solved by the '433 patent, and the 'key solution' Patent Owner argues is presented by the '433 patent, were known in the art." This testimony is relevant because it shows that ISO9241-14's disclosures relate to conventional desktop computers rather than portable media players.

Observation #6: In Ex. 2045 at page 44, line 22 to page 46, line 23, Dr. Bederson admitted that ISO9241-14 was "developed primarily by reviewing the existing" publications (listed in "Annex C"), "many" of which "were published in the 1980's," that most publications in the relevant "fields in the 1980's related to desktop computers," and that "much of the research in the 1980's focused on

desktop computers.” This testimony is relevant to pages 6-9 of Petitioners’ Reply (Paper 25) and paragraph 9 of Dr. Bederson’s Reply Declaration (Ex. 1020), where Dr. Bederson asserts that “It is therefore my understanding (confirmed by ISO9241-14) that, at the time of the invention, both the ‘problem’ Patent Owner alleges was solved by the ’433 patent, and the ‘key solution’ Patent Owner argues is presented by the ’433 patent, were known in the art.” This testimony is relevant because it shows that one of skill in the art would not have found ISO9241-14 applicable to the claimed inventions for a user interface for a portable media player because ISO9241-14 is expressly based on older user interface literature, which focused on desktop computers as opposed to portable devices.

Observation #7: In Ex. 2045 at page 87, lines 1-7, Dr. Bederson admitted that “[g]iven that ISO 9241-14 is based substantially on publications from the 1980’s,” it is “[t]heoretically” “possible that some of the recommendations in that standard could cause degradation in usability when applied to handheld-sized devices.” This testimony is relevant to pages 6-9 of Petitioners’ Reply (Paper 25) and paragraph 9 of Dr. Bederson’s Reply Declaration (Ex. 1020), where Dr. Bederson asserts that “It is therefore my understanding (confirmed by ISO9241-14) that, at the time of the invention, both the ‘problem’ Patent Owner alleges was solved by the ’433 patent, and the ‘key solution’ Patent Owner argues is presented by the ’433 patent, were known in the art.” This testimony is relevant because it

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