

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.,
Petitioner,

v.

CREATIVE TECHNOLOGY LIMITED,
Patent Owner.

Case IPR2016-01407
Patent 6,928,433

Record of Oral Hearing
Held: August 29, 2017

Before THOMAS L. GIANNETTI, PATRICK M. BOUCHER and
MELISSA A. HAAPALA, *Administrative Patent Judges*.

Case IPR2016-01407
Patent 6,928,433

APPEARANCES

ON BEHALF OF THE PETITIONER:

MICHAEL N. RADER, ESQ.
JOSHUA J. MILLER, ESQ.
Wolf, Greenfield & Sacks, P.C.
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ON BEHALF OF THE PATENT OWNER:

JONATHAN D. BAKER, ESQ.
MICHAEL D. SAUNDERS, ESQ.
Farney Daniels, P.C.
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ALSO PRESENT:

Russell Swerdon, Esq.

The above-entitled matter came on for hearing on Tuesday, August 29, 2017, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 1961 Stout Street, 14th Floor, Room D, Denver, Colorado 80202.

PROCEEDINGS

WHEREUPON, the following proceedings were taken pursuant to the Patent Trial and Appeal Board.

* * * * *

JUDGE HAAPALA: Good afternoon and welcome to Denver. I'm Judge Haapala. This is Judge Boucher. And appearing on videoconference in Alexandria is Judge Giannetti. Let's begin with your appearances. Let's start with petitioner. Would you please approach the microphone.

MR. RADER: Thank you, Your Honor. Michael Rader from Wolf, Greenfield & Sacks on behalf of the Sony entity petitioners, and with me is my colleague, Josh Miller.

JUDGE HAAPALA: Mr. Rader, will you be presenting for petitioner?

MR. RADER: Yes, I will.

MR. BAKER: Good morning, Your Honor. I'm Jonathan Baker from Farney Daniels on behalf of the patent owner, Creative Technology Limited. And with me today is my colleague, Michael Saunders, from Farney Daniels as well. And also with us today is Russell Swerdon, in-house counsel at Creative Labs.

JUDGE HAAPALA: And, Mr. Baker, are you presenting for patent owner?

MR. BAKER: Yes, I am.

JUDGE HAAPALA: Okay. I'd like to go over how we're going to proceed today. Each party is going to have

1 45 minutes of time to present its arguments. Petitioner, you
2 have the burden, so we'll begin with you. Patent owner, you
3 will get a chance to respond to petitioner's arguments.
4 Petitioner, you can reserve rebuttal time if you want.

5 So in our order of June 13, we also authorize
6 patent owner, if you choose, to address at this hearing any
7 arguments or evidence that you feel that the petitioner
8 presented in its reply that are not permitted under the
9 proper scope of our rules. So petitioner if patent owner
10 presents any such arguments, you can respond.

11 Please remember that Judge Giannetti will not
12 be able to hear you unless you speak into the microphone.
13 And I understand that both parties have demonstratives.
14 We've reviewed the submissions, we've reviewed petitioner's
15 objections, and we decided that both parties can use their
16 demonstratives as aids to oral arguments, but they're not
17 evidence, and neither party is going to be authorized to submit
18 the demonstratives as evidence, so we're not going to rule on
19 the objections at this time.

20 As a reminder, Judge Giannetti is not going to
21 be able to see your slides, so please when you're making your
22 presentation, refer to the slide number as you're going
23 through it during your argument. I'd also like to remind the
24 parties that we will not entertain any speaking objections.
25 If you have an issue, you can raise it during your time.

26 So petitioner, you can begin when you're

1 ready.

2 MR. RADER: Thank you, Your Honor. I'm going
3 to reserve up to about 15 minutes for rebuttal, although, I
4 may run into that a little bit in my affirmative
5 presentation, in which case, I'll just reserve a little bit
6 less, if that's okay.

7 So what I'd like to do in the 30 to 35 minutes
8 that I have now is to do two things. First, I'm going to
9 take just about six or seven minutes to do a little bit of
10 review. Obviously, what the 433 patent is about and what the
11 two primary prior art references disclose, the Birrell
12 reference and the Seidensticker reference. And, of course,
13 what the combination looks like. So what it looks like when
14 you take the hierarchically organized user interface of
15 Seidensticker and use it to display the hierarchically
16 organized music data of Birrell.

17 JUDGE BOUCHER: Can I interrupt just for a
18 minute. I just wanted to ask the technician to move the
19 camera. Apparently they can't see the podium clearly -- the
20 camera is focused on us -- so that Judge Giannetti can --
21 thank you.

22 MR. RADER: As you'll see, the combination of
23 the Seidensticker interfaced with the Birrell data looks just
24 like the preferred embodiment of the 433 patent. Now that
25 background is very important, because the
26 Birrell-Seidensticker combination itself, there's very little

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