

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 B2

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

HAAPALA, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

Sony Corporation, Sony Mobile Communications (USA) Inc., Sony Mobile Communications AB, and Sony Mobile Communications Inc. (collectively, “Petitioner”) filed a Petition pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 2, 3, 5, 7, and 17–28 of U.S. Patent No. 6,928,433 B2 (“the ’433 patent”). Paper 2 (“Pet.”). Applying the standard set forth in 35 U.S.C. § 314(a), we granted Petitioner’s request and instituted an *inter partes* review of all challenged claims. Paper 13 (“Dec.”).

During the trial, Patent Owner timely filed a Response (Paper 19, “PO Resp.”), to which Petitioner timely filed a Reply (Paper 25, “Reply”). An oral hearing was held on August 29, 2017, and a copy of the transcript was entered into the record. Paper 43 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Decision is a Final Written Decision under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73 as to the patentability of the claims on which we instituted trial. Based on the record before us, we determine that Petitioner has shown, by a preponderance of the evidence, that claims 2, 3, 5, 7, and 17–28 of the ’433 patent are unpatentable.

I. BACKGROUND

A. *The ’433 Patent (Ex. 1001)*

The ’433 patent was the subject of an *inter partes* reexamination that resulted in the cancellation of claims 1, 4, 6, and 8–16, and the addition of new claims 17–28. Ex. 1002.

The ’433 patent describes a user interface for a portable player that plays files stored in memory, such as audio files. Ex. 1001, 3:53–55. The content may be organized into a hierarchy of top-level categories and associated sub-categories. *Id.* at 2:12–29. The hierarchy is displayed on the

device so that a user can traverse the hierarchy to find individual tracks or playlists composed of logical groups of tracks. *Id.* at 3:4–7.

Figure 10 of the '433 patent is reproduced below:

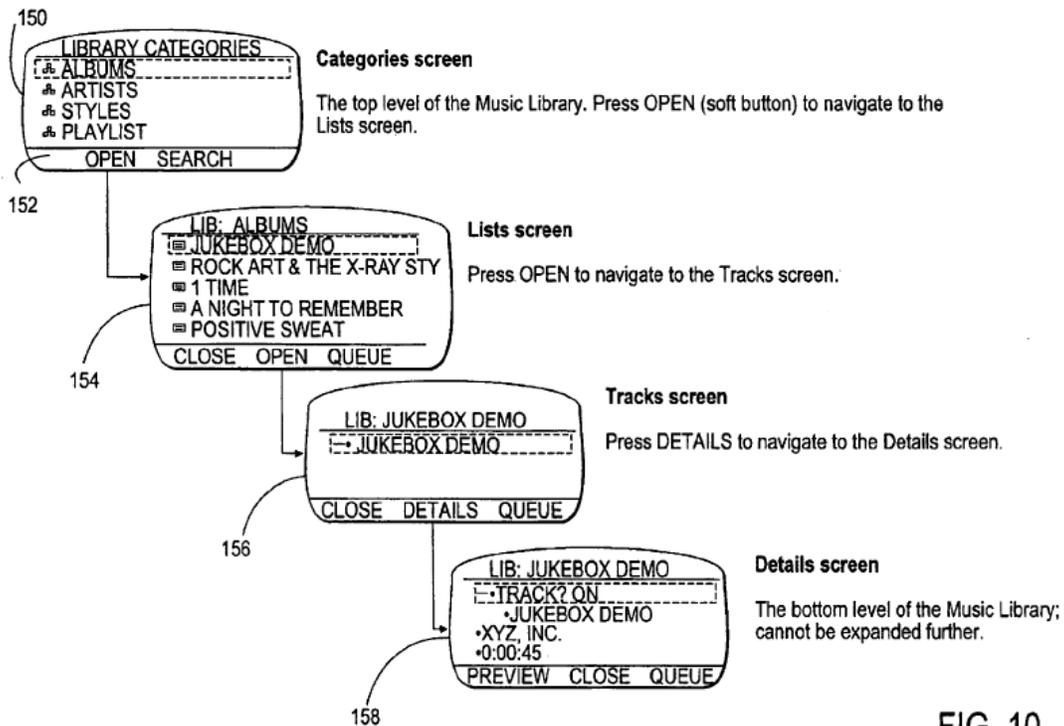


FIG. 10

Figure 10 illustrates a sequence of display screens showing how to navigate to lower levels of the hierarchy. *Id.* at 8:57–58. Categories screen 150 illustrates the display of first-level categories. *Id.* at 8:59–63. Lists screen 154 is displayed as a result of a user opening the Albums category of library catalog screen 150, and shows items within the Albums category. *Id.* at 9:4–9. Tracks screen 156 shows a result of opening an item in the Lists screen 154, and Details screen 158 shows the details of a track selected in Tracks screen 156. *Id.* at 9:10–44.

B. Illustrative Claim

Because all of the challenged claims depend from claim 1, which was canceled in the reexamination, we present that canceled claim to illustrate the subject matter:

1. A method of selecting at least one track from a plurality of tracks stored in a computer-readable medium of a portable media player configured to present sequentially a first, second, and third display screen on the display of the media player, the plurality of tracks accessed according to a hierarchy, the hierarchy having a plurality of categories, subcategories, and items respectively in a first, second, and third level of the hierarchy, the method comprising:

selecting a category in the first display screen of the portable media player;

displaying the subcategories belonging to the selected category in a listing presented in the second display screen;

selecting a subcategory in the second display screen;

displaying the items belonging to the selected subcategory in a listing presented in the third display screen; and

accessing at least one track based on a selection made in one of the display screens.

C. Instituted Grounds of Unpatentability

Petitioner relies on the following references in its challenges:

| | | | |
|---------------|-----------------|----------------|----------|
| Looney | US 5,969,283 | Oct. 19, 1999 | Ex. 1009 |
| Proehl | US 6,118,450 | Sept. 12, 2000 | Ex. 1011 |
| Johnson | US 5,798,921 | Aug. 25, 1998 | Ex. 1012 |
| Birrell | US 6,332,175 B1 | Dec. 18, 2001 | Ex. 1013 |
| Seidensticker | US 6,128,012 | Oct. 3, 2000 | Ex. 1014 |

We instituted trial under 35 U.S.C. § 103(a) based on the following combinations of references. Dec. 25.

| References | Claims |
|---|------------|
| Birrell and Seidensticker | 2, 3, 5, 7 |
| Birrell, Seidensticker, and Proehl | 19, 21, 25 |
| Birrell, Seidensticker, Proehl, and Johnson | 23, 27 |
| Birrell, Seidensticker, and Looney | 17, 18 |
| Birrell, Seidensticker, Proehl, and Looney | 20, 22, 26 |
| Birrell, Seidensticker, Proehl, Johnson, and Looney | 24 and 28 |

In support of its contentions, Petitioner submitted declarations by its witness, Benjamin B. Bederson, Ph.D. Exs. 1006, 1020. In response, Patent Owner submitted declarations by its witness, Eric J. Gould Bear. Exs. 2001, 2014. Both experts were cross-examined during the trial, and transcripts of their deposition are in the record. Exs. 2017, 2045 (Bederson depositions); Ex. 1021 (Bear deposition). Additionally, Patent Owner filed a motion for observation on the cross-examination of Dr. Bederson, and Petitioner filed a response. Papers 33, 36.

Patent Owner further submitted a declaration by Tan Shao Mieng, to provide support for its arguments regarding secondary considerations of non-obviousness. Ex. 2015.

D. Related Proceedings

Patent Owner identifies a number of proceedings in which it has alleged infringement of the '433 patent. *See* Paper 11. These include assertions by Patent Owner against Petitioner in *Creative Tech. Ltd. v. Sony Corp.*, No. 2:16-cv-00263 (E.D. Tex.), which is also identified by Petitioner. Pet. 5. Patent Owner further identifies the following declaratory judgement proceeding involving the patent: *Google, Inc. v. Creative Labs, Inc. and*

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