

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CREATIVE TECHNOLOGY LIMITED,  
Patent Owner.

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Case IPR2016-01407  
Patent 6,928,433

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

HAAPALA, *Administrative Patent Judge*.

DECISION  
Institution of *Inter Partes* Review  
37 C.F.R. § 42.108

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.”). Creative Technology Limited (“Patent Owner”) filed a Preliminary Response. Paper 10 (“Prelim. Resp.”). Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we grant Petitioner’s request and institute an *inter partes* review of all challenged claims.

## I. BACKGROUND

### A. *The ’433 Patent (Ex. 1001)*

The ’433 patent was the subject of an *inter partes* reexamination, which resulted in the cancellation of claims 1, 4, 6, and 8–16 and the addition of new claims 17–28. Ex. 1002. The patent describes a user interface for a portable player that plays files stored in memory, such as music files or other content. Ex. 1001, 3:53–56, 7:22–24. The content may be organized into a hierarchy of top-level categories and associated sub-categories. *Id.* at 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 tracts. *Id.* at 3:4–8.

Figure 10 of the ’433 patent is reproduced below:

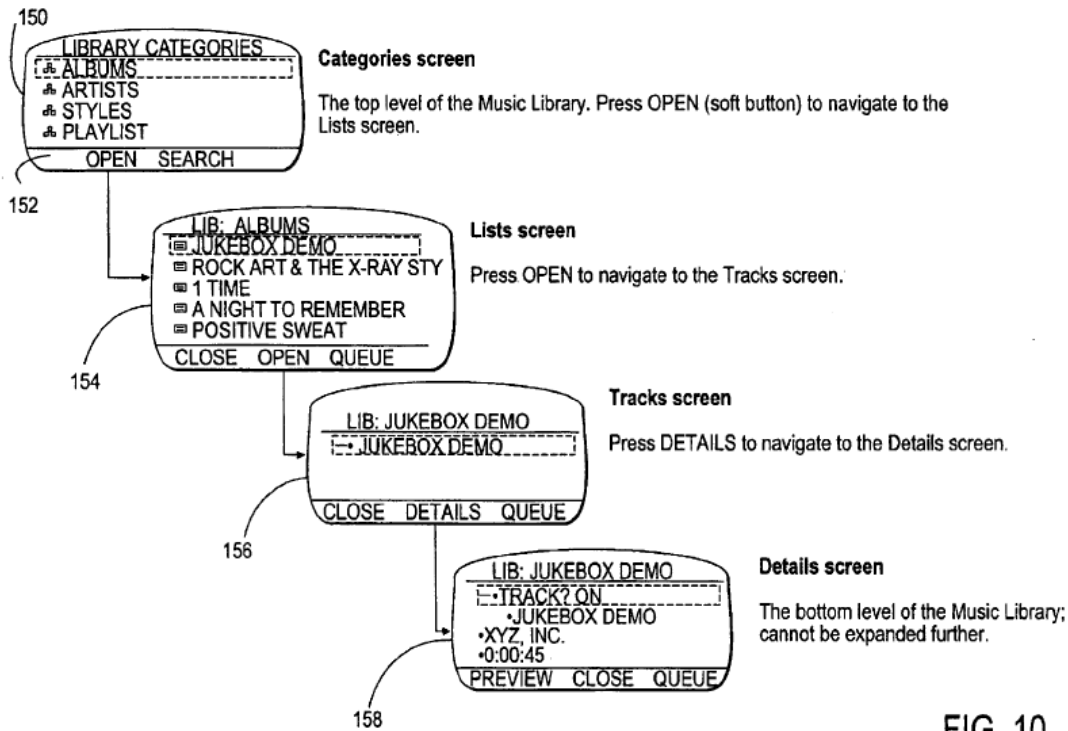


FIG. 10

Figure 10 illustrates a sequence of display screens describing 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*

All of the challenged claims depend from canceled claim 1, which is illustrative of the subject matter of the claims at issue:

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. References*

Petitioner relies on the following references:

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	Dec. 18, 2001	Ex. 1013
Seidensticker	US 6,128,012	Oct. 3, 2000	Ex. 1014

### *D. Grounds Asserted*

Petitioner challenges the patentability of the claims of the '433 patent under 35 U.S.C. §§ 102(b) and 103(a) over the following combinations of references:

References	Basis	Claims
Looney	35 U.S.C. § 102(b)	2, 3, 5, 7, 17, 18
Looney and Proehl	35 U.S.C. § 103(a)	2, 3, 19–28
Looney, Proehl, and Johnson	35 U.S.C. § 103(a)	23, 24, 27, 28
Birrell and Seidensticker	35 U.S.C. § 103(a)	2, 3, 5, 7, 17, 18

References	Basis	Claims
Birrell, Seidensticker, and Proehl	35 U.S.C. § 103(a)	19–28
Birrell, Seidensticker, Proehl, and Johnson	35 U.S.C. § 103(a)	23, 24, 27, 28
Birrell, Seidensticker, and Looney	35 U.S.C. § 103(a)	17, 18
Birrell, Seidensticker, Proehl, and Looney	35 U.S.C. § 103(a)	20, 22, 24, 26, 28
Birrell, Seidensticker, Proehl, Johnson, and Looney	35 U.S.C. § 103(a)	24 and 28

### *E. Related Proceedings*

Patent Owner identifies a number of proceedings in which it has alleged infringement of the '433 patent. *See* Paper 8. Patent Owner also identifies the following declaratory judgment proceeding involving the patent: *Google, Inc. v. Creative Labs, Inc. and Creative Technology Ltd.*, Case No. 3:16-cv-02628-JST (N.D. Cal.). *Id.* Additionally, Patent Owner states the '433 patent is the subject of an investigation at the U.S. International Trade Commission. *Id.* Petitioner submitted updated mandatory notices, in which it identifies the following pending appeal of the ITC investigation: *Creative Technology Ltd. V. ITC*, Case No. 16-2715 (Fed. Cir.). Paper 12.

## II. ANALYSIS

### *A. Claim Construction*

In an *inter partes* review, claims of an unexpired patent are interpreted using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Under that standard, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the

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