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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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KINGSTON TECHNOLOGY)
COMPANY, INC.,)
Petitioner,)
v.) Case IPR2016-01622
POLARIS INNOVATIONS, LTD.,) Patent 6,850,414, B2
Patent Owner.)

TELECONFERENCE SESSION
Friday, May 11, 2018
2:00 p.m.

BEFORE: JUDGE KEN BARRETT, JUDGE JEAN HOMERE



1 APPEARANCES:

2

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1 P R O C E E D I N G S

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3 Friday, May 11, 2018 2:00 p.m.

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5 THE COURT: Good afternoon. This is Judge Ken
6 Barrett with the Patent Trial and Appeal Board. This is
7 IPR 2016-01622. Who do we have on the phone for
8 Petitioner?

9 MR. HOFFMAN: Your Honor, David Hoffman for
10 Petitioner and I have the court reporter on the call as
11 well.

12 THE COURT: Thank you, Mr. Hoffman. And who
13 do we have for the patent owner?

14 MR. WEATHERWAX: Your Honor, this is Ken
15 Weatherwax, lead counsel for patent owner, and I also
16 have my colleague, Nathan Lowenstein.

17 THE COURT: Good afternoon, Gentlemen, and I
18 understand we do have a court reporter on the phone.

19 Mr. Hoffman, if you could please file that
20 transcript as an exhibit when it comes in, that would be
21 much appreciated.

22 MR. HOFFMAN: Yes, Your Honor.

1 THE COURT: Mr. Hoffman, you asked for the
2 call, so I'll let you speak first.

3 MR. HOFFMAN: Certainly, Your Honor. As the
4 Board may remember, Claim 4 in this IPR was not
5 instituted. But under the recent Supreme Court case,
6 SAS, which is occupying quite a bit of time, I'm sure,
7 at the Board, and we believe that it should be.

8 We are in a post final (inaudible) decision
9 situation, obviously, and I'm taking some guidance off
10 the chief judge's slide, which indicated that a
11 petitioner or patent owner may request to extend a
12 hearing deadline if it is past.

13 In this case, the deadline for request for
14 reconsideration has past for our IPR. We're in the
15 period now for seeking an appeal.

16 Certainly, if that's the Board's preferred
17 mechanism to address the issue by filing an appeal and
18 taking it up to the Fifth Circuit, petitioner is willing
19 to do that. But we wanted to ensure that we can take
20 what would be considered a more direct route and file a
21 motion seeking reconsideration via SAS and ask the Board
22 to render a decision on Claim 4, in view of what we

1 believe as a complete briefing on the substance of that
2 claim and its patent ability.

3 THE COURT: Say that last part again. You
4 mentioned complete briefing.

5 MR. HOFFMAN: Yes, Your Honor. We believe
6 that through the motion to amend practice that was taken
7 by the patent owner and the oral argument that we had,
8 the patent owner had a full and fair opportunity to
9 argue for the patentability of Claim 9, obviously, but
10 Claim 4, as the Board may recall, is wholly contained
11 within Claim 9. And in rendering a decision on Claim 9,
12 the Board has essentially rendered a decision on
13 Claim 4.

14 We believe that the Board can stand on that
15 decision, simply expand the final written decision,
16 given that, again, patent owner has a complete full
17 opportunity to argue the merits of Claim 4 both in
18 briefing and before the Board.

19 THE COURT: Okay, thank you for that.

20 So you're not asking for more briefing at this
21 time?

22 MR. HOFFMAN: No, Your Honor, we're not.

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