

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

PAPST LICENSING GMBH & CO., KG,
Patent Owner.

Case IPR2016-01839
Patent 6,470,399

**PATENT OWNER PAPST LICENSING GMBH & CO., KG'S MOTION
FOR OBSERVATION RELATED TO DEPOSITION TESTIMONY OF DR.
EREZ ZADOK**

Papst Licensing GMBH & Co., KG (“Patent Owner”) submits this Motion for Observation Related to the Deposition Testimony of Dr. Erez Zadok, identifying specific portions of Dr. Zadok’s November 28, 2017 deposition transcript (Exhibit 2005) for the Patent Trial and Appeal Board’s consideration. Dr. Zadok is a reply declarant of Petitioner Apple, Inc. (“Petitioner”). Patent Owner submits the following observations:

Observation No. 1

In Exhibit 2005, on page 11, lines 6-18, the witness testified, in response to a question about the District Court’s claim construction of a storage input-output device customary in a host device referring to a singular device, “Yes. I see that, at least in the construction.” This testimony is relevant to the proper claim construction for “input/output device customary in a host device” discussed on pages 19-20 of Patent Owner’s Response (Paper 17) and pages 3-5 of Petitioner’s Reply (Paper 23). This testimony is relevant because it suggests that a singular interface device, rather than multiple devices, are responding to an inquiry from the host device based on the claim language.

Observation No. 2

In Exhibit 2005, on page 25, lines 14-21, the witness testified, “I don’t think

it is limited to only that” when asked “despite the language saying that ‘...responding to the inquiry from the host device by the interface device in such a way that it is an input-output device customary in a host device,’ you do not believe the ‘it’ refers to the interface device.” This testimony is relevant to the arguments made on pages 19-20 of Patent Owner’s Response (Paper 17) and pages 5-7 of Petitioner’s Reply (Paper 23). The testimony is relevant because it illustrates Patent’s Owner’s contention that the interface device is the device responding to the inquiry is consistent with the claim language, and Petitioner’s contention that some other “inquired device,” and not necessarily the interface device, is the device responding to the inquiry is contrary to the plain language of the claims.

Observation No. 3

In Exhibit 2005, on page 29, lines 13-20, the witness testified “In the passages that I read in the original declaration, I don’t see this particular phrase” when asked “did you see the use of the phrase ‘inquire[d]’ device in your original declaration.” This testimony is relevant to the discussion of “inquired devices” on pages 5-7 and 20-23 of Petitioner’s Reply (Paper 23). The testimony is relevant because Petitioner asserts for the first time in the Reply Brief that the inquired device is the data reading unit 12, and it is the data reading unit 12 that is identified as a hard disk. This is inconsistent with Petitioner’s contention in the Petition

(Paper 2) on page 34, indicating that the SCSI device converter 3 identifies the whole SCSI device converter 3, including all components therein (*i.e.*, the four components identified as Data Writing Unit 11, Data Reading Unit 12, Control Data Writing Unit 13 and Interrupt Data Reading Unit 14), as a single hard disk.

Observation No. 4

In Exhibit 2005, on page 55, lines 11-22 through page 56, lines 1-6, the witness testified “the SCSI device converter is one thing, but it comprises multiple things inside...this paragraph 91 does not directly mention those four units.” This testimony is relevant to the discussion of “inquired devices” on pages 5-7 and 20-23 of Petitioner’s Reply (Paper 23) and the inquiry of the SCSI device converter 3 as a whole on page 34 in the Petition (Paper 2). This testimony is relevant because Petitioner asserts for the first time in the Reply Brief that the inquired device is the data reading unit 12 or one of the other three units in the SCSI device converter 3, and that the data reading unit 12 or one of the other three units in the SCSI device converter 3 is identified as a hard disk. The testimony is relevant because it illustrates the inconsistency between what Petitioner is alleging is the device being misidentified as a hard disk (the SCSI device converter 3 as a whole) in the Petition versus what it is alleging is the device that is being misidentified as a hard disk (Data Reading Unit 12, a component of the SCSI device converter 3) in the Reply.

Observation No. 5

In Exhibit 2005, on page 75, lines 1-10, the witness testified “what I meant is that you have to take the SCSI device converter as a whole with all of its internal components and that information is going to flow within these internal components and flow in and out through the SCSI device converter” when asked, “within the paragraphs we went over in the original declaration, you repeatedly said the SCSI device converter 3 is identified as a hard disk, not any individual unit, correct?” This testimony is relevant to the discussion of “inquired devices” on pages 5-7 and 20-23 of Petitioner’s Reply (Paper 23) and the inquiry of the SCSI device converter 3 as a whole on page 34 in the Petition (Paper 2). This testimony is relevant because Petitioner asserts for the first time in the Reply Brief that the inquired device is the data reading unit 12 or one of the other three units in the SCSI device converter 3, and that the data reading unit 12 or one of the other three units in the SCSI device converter 3 is identified as a hard disk. The testimony is relevant because it illustrates the inconsistency between what Petitioner is alleging is the device being misidentified as a hard disk (the SCSI device converter 3 as a whole) in the Petition versus what it is alleging is the device that is being misidentified as a hard disk (Data Reading Unit 12) in the Reply.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.