

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMERSON ELECTRIC CO.,
Petitioner,

v.

SIPCO, LLC
Patent Owner.

Case IPR2017-00216
Patent 8,013,732 B2

Record of Oral Hearing
Held: February 5, 2018

Before LYNNE E. PETTIGREW, STACEY G. WHITE, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

Case IPR2017-00216
Patent 8,013,732 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JAMES L. DAVIS, ESQUIRE
JAMES R. BATCHELDER, ESQUIRE
STEVEN PEPE, ESQUIRE
KATHRYN N. HONG, ESQUIRE
DANIEL RICHARDS, ESQUIRE
Ropes & Gray, LLP
1900 University Avenue, 6th Floor
East Palo Alto, California 94303-2284
(650) 617-4000

ON BEHALF OF THE PATENT OWNER:

GREGORY GONSALVES, ESQUIRE
Gonsalves Law Firm
2216 Beacon Lane
Falls Church
Virginia 22043
(571) 419-7252

THOMAS MEAGHER, ESQUIRE
Meagher, Emanuel, Laks, Goldberg & Liao LLP
1 Palmer Square
Princeton, New Jersey 08542
(609) 454-3500

The above-entitled matter came on for hearing on, at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

- - - - -

JUDGE PETTIGREW: First, we will hear argument in IPR2017-00216, Emerson Electric Company versus SIPCO. After a short break, we will hear argument in IPR2017-00252, Emerson Electric versus IPCO. Judge White is joining us by video from our Dallas office and Judge Zado is joining us by video from our Silicon Valley office. They won't have the benefit of the visual cues in the room, so, as you move through your demonstratives, please identify particular slide numbers.

All right. Let's begin with IPR2017-00216. Each side has 45 minutes to argue. Petitioner has the ultimate burden of establishing unpatentability and will argue first, then Patent Owner will present its opposing argument, and then Petitioner may use any time that he has reserved for rebuttal.

Counsel, when you begin your argument, please identify yourself and the party you represent, for the record. Petitioner, when you're ready.

MR. PEPE: Thank you, Your Honor. Good afternoon, Your Honors, may it please the Board. My name is Steven Pepe, and I will be discussing the disclosure of the prior art, in particular the Kahn reference. And my colleague, Kathryn Hong, will be addressing issues relating to the motivation to combine the prior art. We're both here on behalf of the Petitioner, and we're both from Ropes and Gray.

Your Honor, I have hard copies of the demonstratives. May I approach?

JUDGE PETTIGREW: Yes. Thank you. And would you like to reserve any time for rebuttal?

MR. PEPE: Yes, we would like to reserve 20 minutes for rebuttal,

1 Your Honor. May I proceed?

2 JUDGE PETTIGREW: Yes, please.

3 MR. PEPE: Patent Owner raises two primary arguments about the
4 Kahn reference. First is whether Kahn's packet radios, those are the claimed
5 transceivers, receive and transmit the three pieces of information required by
6 the claims. Second is whether Kahn's stations, that's the claimed gateway,
7 receives these three pieces of information and then translates and transmits
8 this information over the WAN to a computer.

9 If we can please turn to slide 15, we're going to turn to the first issue.
10 The claims require a transceiver that transmits three pieces of information,
11 select information, ID information for a nearby transceiver, and ID
12 information for the retransmitting transceiver. What we see here on slide 15
13 is Figure 8 of Kahn, and we've highlighted the header, as well as what's
14 called the text. The text portion is the payload, and that would carry the
15 claimed select information, such as measurement data. Now, Kahn discloses
16 a number of routing options for its packets, for the packets that are shown in
17 Figure 8. One of these, and we quoted on the bottom, states that each packet
18 originating at a radio could contain the entire set of selectors, and that's very
19 important language as we walk through this presentation today. We're going
20 to come back to that language time and time again. In the upper left, we see
21 that selectors are defined simply as the identifiers of the radio.

22 If we could turn to slide 16. Thus, by choosing this option, the option
23 that sends the entire set of selectors in a packet, one would be including in
24 the packets the ID for the nearby transceiver and the ID for the
25 retransmitting transceiver, as Dr. Heppe explains in that quote that we have
26 there. Thus, Kahn discloses exactly what the claim requires, a transceiver

1 that transmits the ID of a nearby transceiver, the ID for a retransmitting
2 transceiver, and the select information by virtue of that routing option that
3 says send the entire set of selectors with the packet.

4 If we could turn to slide 17. Patent Owner makes a number of
5 arguments in connection with this element. First, Patent Owner argues that
6 the ID of the retransmitting transceiver is not in the header. First, this is not
7 a requirement of the claim. The claim never says where this information
8 needs to be. It simply says the information needs to be transmitted. But
9 even if it was, Kahn expressly discloses, and you can see it again in that
10 quote, that the entire set of selectors, which would include identification
11 information of the transceivers, would be in the headers.

12 If we can turn to slide 18. Now, Kahn states that, when the entire set
13 of selectors is sent with each transmission, there may be some impact on
14 network efficiency and extendability. As a result, Kahn says that, when
15 you're using this option, only a, quote, small finite set of selectors could be
16 sent along with the packet. Now, Patent Owner latches onto that small finite
17 set language and argues that this means that not all the selectors are being
18 sent. It would only be a subset of those selectors. First, this argument
19 directly contradicts the express language of Kahn. In the prior sentence,
20 Kahn says that this option includes sending the entire set of selectors with
21 the transmission. Second, as Dr. Heppe points out, this language simply
22 means that, when this routing option is used, there will be a limited number
23 of transceivers in the route. Thus, if you have a very, very large network
24 with lots of transceivers, this routing option may not be a good option for
25 you. That's simply all that language means.

26 If we can turn to slide 20. Patent Owner also argues that Kahn

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.