

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 IPR2017-00595  
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

Denying Institution of *Inter Partes* Review  
Denying Motion for Joinder  
37 C.F.R. §§ 42.108, 42.122

On January 6, 2017, 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 1 (“Pet.”). Creative Technology Limited (“Patent Owner”) filed a Preliminary Response on May 1, 2017. Paper 11 (“Prelim. Resp.”). Petitioner also filed a Motion for Joinder concurrently with the Petition. Paper 3. Patent Owner filed an Opposition to Petitioner’s Motion for Joinder (Paper 7) on February 6, 2017, and Petitioner filed a Reply to Patent Owner’s Opposition (Paper 8) on March 6, 2017.

We exercise our discretion under 35 U.S.C. § 314(a) and 37 C.F.R. § 42.108(a) not to institute an *inter partes* review. Further, the Motion for Joinder is denied.

## 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. *See* Ex. 1002.

The ’433 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 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:

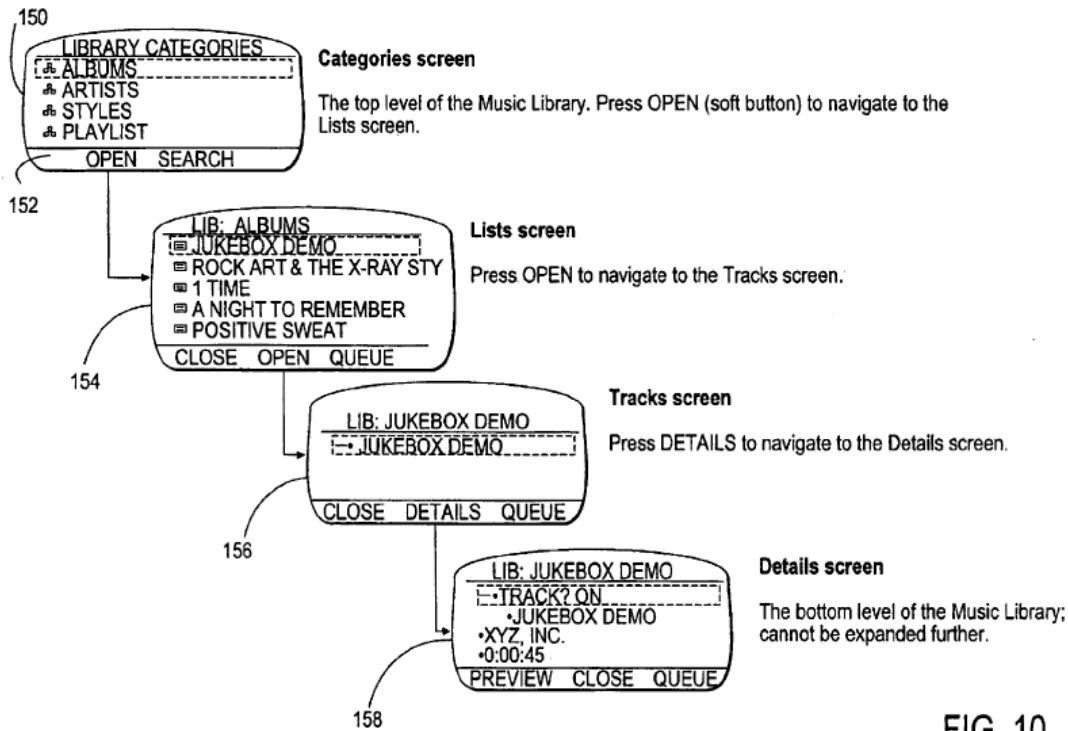


FIG. 10

Figure 10 illustrates a sequence of display screens 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

Because all of the challenged claims depend from claim 1, which was canceled in the reexamination, we use 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. 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

### *D. Grounds Asserted*

Petitioner challenges the patentability of the claims of the '433 patent 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, 17, 19–28
Looney, Proehl, and Johnson	35 U.S.C. § 103(a)	23, 24, 27, 28

*E. Related Proceedings*

Petitioner and Patent Owner identify numerous matters as related to this proceeding, including several district court litigations, a pending appeal in the United States Court of Appeals for the Federal Circuit of a decision in a United States International Trade Commission investigation, and a pending *inter partes* review proceeding of the '433 patent (IPR2016-01407) involving the same parties as the instant Petition. *See* Pet. 13–14; Paper 2–3.

II. ANALYSIS

*A. Discretionary Non-Institution*

Petitioner previously filed a Petition (“First Petition”) requesting an *inter partes* review of claims 2, 3, 5, 7, and 17–28 of the '433 patent, the same claims challenged in the instant Petition. *See Sony Corp. v. Creative Tech. Ltd.*, Case IPR2016–01407 (PTAB July 11, 2016) (Paper 2). In the First Petition, Petitioner challenged the patentability of the claims based on the following grounds:

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 <sup>1</sup> and Seidensticker <sup>2</sup>	35 U.S.C. § 103(a)	2, 3, 5, 7, 17, 18
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

<sup>1</sup> U.S. 6,332,175; issued Dec. 18, 2001.

<sup>2</sup> U.S. 6,128,012; issued Oct. 3, 2000.

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