

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

ANDREA ELECTRONICS CORP.,
Patent Owner.

Cases IPR2017-00626 and IPR2017-00627
Patent 6,363,345 B2

Record of Oral Hearing
Held: April 25, 2018

Before STEPHEN C. SIU, MICHAEL R. ZECHER, and JEREMY M.
PLENZLER, *Administrative Patent Judges*.

Cases IPR2017-00626 and IPR2017-00627
Patent 6,363,345 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Wednesday,
April 25, 2018, commencing at 1:00 p.m., at the U.S. Patent and
Trademark Office, 1961 Stout Street, Denver, Colorado.

1 PROCEEDINGS

2 JUDGE ZECHER: Please be seated. All right. Good
3 afternoon. I'm Judge Zecher. I'm here with two of my
4 colleagues that are participating remotely as you can tell
5 (inaudible). We have Judge Siu who is on my left and Judge
6 Plenzler who is on my right.

7 This is an oral hearing for two proceedings. Cases
8 IPR2017-00626 and IPR2017-00627, both of which address U.S.
9 Patent No. 6,363,345. In each case we instituted an IPR as
10 to claims, 1 through 25 and 38 through 47 based on various
11 grounds.

12 As we outlined in the trial hearing order, we gave
13 each party a total of 45 minutes of arguments. We're going
14 to have Petitioner present first given that that they carry
15 the burden of persuasion here. They can reserve a certain
16 amount of rebuttal time at which point Patent Owner will
17 present their case and then Petitioner will use the remainder
18 of their rebuttal time.

19 Just to begin the proceeding and so the record is
20 clear, I'd like each person to step up -- each party starting
21 with Petitioner to step up to the microphone, state your name
22 and then followed by Patent Owner. And then just as a reminder,
23 because we have two judges participating remotely,
24 any reference to slides need to be clear and explicit and
25 obviously when talking please be at the microphone.

26 Petitioner?

1 MR. KUSHAN: Good afternoon. My name is Jeff
2 Kushan. I'm with Sidley Austin (inaudible).

3 JUDGE ZECHER: Thank you.

4 MR. BELANGER: Good afternoon. William Belanger
5 with Pepper Hamilton on behalf of Andrea. With me is Brad
6 Lennie, also with Pepper Hamilton.

7 JUDGE ZECHER: Thank you very much. All right.
8 I'll turn the floor over to Mr. Kushan and how many -- how
9 much time would you like to reserve for rebuttal?

10 MR. KUSHAN: We would like to reserve approximately
11 20 minutes for rebuttal.

12 JUDGE ZECHER: Okay. You may begin.

13 MR. KUSHAN: Thank you, Your Honors. Today we are
14 going to focus, as you've asked us to, on the issue
15 (inaudible) proceedings. I'm going to be covering the 626
16 proceedings based on Hirsch and my colleague, Mr. Broughan,
17 will be covering the proceeding based on Helf which is the
18 627 proceeding.

19 These proceedings -- oh, I'm sorry. Would you like
20 (inaudible)?

21 JUDGE ZECHER: Oh, yes. Certainly approach. Thank
22 you.

23 MR. KUSHAN: Thank you. So at a high level there
24 are essentially three fundamental problems we see in
25 responses (inaudible) patent owner.

26 First, they've identified a number of supposed

1 distinctions relative to the claims but the claims don't have
2 language carrying those distinctions into relevance in the
3 case.

4 The second issue is that they've been using a
5 (inaudible) KSR.

6 And finally, we think there are a number of issues
7 in which they have mischaracterized what the references are
8 teaching and what actually the testimony has been.

9 If you could go to Slide 3. Now importantly, the
10 independent claims that are being contested have not been
11 disputed as being anticipated by Hirsch or by Helf. In this
12 case Hirsch is the one I'm going to focus on. There's really
13 three disputes in the 626 proceeding. The first one I'm
14 going to address is whether a skilled person would have
15 combined Hirsch with Martin.

16 The second set of issues relate to whether Martin
17 teaches the techniques that are reflected in some of the
18 Dependent Claims 4, 6 and 10.

19 And the third disputed issue is whether a skilled
20 person would have looked to a variety of publications
21 describing conventional techniques of signal processing to
22 find the (inaudible).

23 If you could go to Slide 4. And the first issue is
24 just would a person skilled in the art have considered Martin
25 along with Hirsch and we think the evidence is pretty clear
26 the answer is yes.

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