

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC., SAMSUNG ELECTRONICS CO., LTD., and  
SAMSUNG ELECTRONICS AMERICA, INC.,  
Petitioner,

v.

FIRSTFACE CO., LTD.,  
Patent Owner.

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Case IPR2019-00612  
Patent 8,831,557 B2

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Record of Oral Hearing  
Held: May 5, 2020

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Before JUSTIN T. ARBES, MELISSA A. HAAPALA, and  
RUSSELL E. CASS, *Administrative Patent Judges*.

Case IPR2019-00612  
Patent 8,831,557 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Tuesday, May 5, 2020, commencing at 10:00 a.m. EDT, by video/by telephone.

1 PROCEEDINGS

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3 JUDGE ARBES: Good morning, everyone. This is Judge Arbes of  
4 the Patent Trial and Appeal Board. I have with me Judge Haapala and Judge  
5 Cass. This is the oral hearing in Case IPR2019-00612 involving Patent  
6 8,831,557. Can counsel please state your names for the record? Counsel for  
7 Petitioner?

8 MS. HIGGINS: Good morning, Your Honors. This is Gabrielle  
9 Higgins and with me is Christopher Bonny of Ropes & Gray for Petitioners  
10 Apple and Samsung.

11 JUDGE ARBES: Okay, thank you. And, counsel --

12 MS. HIGGINS: And -- sorry, Your Honors, and we have with us  
13 today, by phone, representative Benjamin Huh from Apple, and Meghana  
14 RaoRane from Samsung.

15 JUDGE ARBES: Great. Thank you. And counsel for Patent Owner?

16 MR. CECIL: Good morning, Your Honors. This is Tom Cecil from  
17 the law firm of Nelson Bumgardner Albritton. I'm here on behalf of the  
18 Patent Owner Firstface Co., Ltd. Also appearing, or not appearing, but with  
19 me, via phone, for Firstface are the individuals Jake Jung and Daniel Bae.

20 JUDGE ARBES: Thank you. Per the Trial Hearing Order in this  
21 case, each party will have 60 minutes of time to present arguments. The  
22 order of presentation is, first, Petitioner will present its case regarding the  
23 challenged claims and may reserve time for rebuttal. Patent Owner then will  
24 respond to Petitioner's presentation and may reserve time for surrebuttal.  
25 Petitioner then may use any remaining time to respond to Patent Owner's

1 presentation, and finally, Patent Owner may use any of its remaining time  
2 for a brief surrebuttal responding to Petitioner's rebuttal arguments only.

3 A few reminders before we begin: There was a motion to seal granted  
4 as to two exhibits in this proceeding. The parties are reminded that this is a  
5 public hearing, so the parties should not discuss any of the confidential  
6 information that was filed under seal. We've also received the parties'  
7 demonstratives exhibits and are able to view them on our screens. To ensure  
8 that the transcript is clear and so that everyone can follow along, please refer  
9 to your demonstratives by slide number. Also please keep your  
10 microphones muted when you're not speaking. When it is your turn to  
11 argue, please speak slowly, and if you hear another voice, please stop so that  
12 we do not talk over each other.

13 Also if either party believes that the other party is presenting an  
14 improper argument, we would ask you to please raise that during your own  
15 presentation rather than objecting at the time and interrupting the other  
16 party's presentation. Obviously, we don't have a clock in the hearing room  
17 here. I can keep time for the parties. I can give you a warning when you've  
18 gone into your rebuttal time if you'd like. And I believe we are ready to go.  
19 Any questions from the parties before we begin?

20 MR. CECIL: None from Patent Owner, Your Honor.

21 MS. HIGGINS: None here, Your Honor.

22 JUDGE ARBES: Thank you. Counsel for Petitioner, you may  
23 proceed, and would you like to reserve time for rebuttal?

24 MS. HIGGINS: May it please the Board at the outset, we would like  
25 to reserve 20 minutes of our time for rebuttal.

26 JUDGE ARBES: Okay. You may begin.

1 MS. HIGGINS: Thank you, Your Honor. If Your Honors would  
2 please turn to slide 4 of Petitioner’s demonstratives; that’s Exhibit 1144.  
3 The Petitioners have provided our positions and our evidence in our briefing,  
4 but to assist the Board in considering the record, we plan to address today in  
5 our opening discussion the five topics here on slide 4 along with any  
6 questions, of course, the Board may have.

7 First, I will address for both grounds 1 and 2 the first issue, whether  
8 the combinations disclose the simultaneously limitations. Then my  
9 colleague Mr. Bonny will address for ground 2 whether Goertz discloses an  
10 activation button that switches the display from an inactive to an active state  
11 as well as motivation to combine for both grounds. But before we jump in, I  
12 would like to make two brief observations about the kinds of arguments and  
13 evidence that Patent Owner has put before this Board.

14 First, Patent Owner merely rehashes arguments already rejected by the  
15 Board at institution, and second, Patent Owner purports to agree with the  
16 Board’s construction of simultaneously, yet repeatedly applies a claim  
17 construction that is not the Board’s construction, and even under Patent  
18 Owner’s interpretation, the simultaneously limitations are still met. We ask  
19 the Board to bear these issues in mind as well as the principle that any  
20 argument not raised in Patent Owner’s response has been waived. That’s  
21 made clear in the Board’s Scheduling Order, Paper 12 at 6.

22 Please turn to slide 5. Now, in its Institution Decision, the Board  
23 addressed claim construction for three terms, “simultaneously,” “inactive-  
24 active state,” and “user identification unit.” For each term, the parties have  
25 adopted the Board’s construction. The invalidity of the claims does not turn  
26 on any of the Board’s claim constructions, however before getting into the

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