

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SNAP, INC.,
Petitioner

v.

BLACKBERRY LIMITED,
Patent Owner.

IPR2019-00714 (Patent 8,825,084 B2)
IPR2019-00715 (Patent 8,326,327 B2)

Oral Hearing Held: June 9, 2020

Before MICHAEL R. ZECHER, MIRIAM L. QUINN, and AARON W.
MOORE, *Administrative Patent Judges*.

IPR2019-00714 (Patent 8,825,084 B2)
IPR2019-00715 (Patent 8,326,327 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

DAVID OKANO, ESQ.
YAR CHAIKOVSKY, ESQ.
of: Paul Hastings LLP
1117 S. California Avenue
Palo Alto, CA 94304
(650) 320-1855 Okano
(650) 320-1832 Chaikovsky
davidokano@paulhastings.com
yarchaikovsky@paulhastings.com

ON BEHALF OF THE PATENT OWNER:

NICHOLAS STEPHENS, ESQ.
MICHAEL T. HAWKINS, ESQ.
of: Fish & Richardson P.C.
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402
(612) 766-2018 Stephens
(612) 337-2569 Hawkins
nstephens@fr.com
hawkins@fr.com

The above-entitled matter came on for hearing on Tuesday,
June 9, 2020, commencing at 11:00 a.m. EDT, via Videoconference.

IPR2019-00714 (Patent 8,825,084 B2)
IPR2019-00715 (Patent 8,326,327 B2)

P-R-O-C-E-E-D-I-N-G-S

11:03 a.m.

JUDGE QUINN: Welcome, everybody, this is a hearing on Snap Inc. v. Blackberry Limited on IPR2019-00714 and IPR2019-00715. These two cases address Patent Numbers 8,825,084 and 8,326,327.

Presiding here in this hearing are Judges Michael Zecher, Aaron Moore, and yours truly, Miriam Quinn. We have set aside 45 minutes of total time to present in this proceeding by each party and I'd like to know who is presenting and present for Petitioner?

MR. OKANO: For Petitioner Snap it's David Okano at Paul Hastings LLP. With me is Petitioner's Lead Counsel Yar Chaikovsky.

JUDGE QUINN: Thank you, and who do we have for Patent Owner?

MR. STEPHENS: This is Nicholas Stephens for Patent Owner Blackberry Limited. I'm here with Lead Counsel Michael Hawkins.

JUDGE QUINN: Thank you. All right, my understanding is that this hearing is open to the public and there is a phone line open. Do we have any confidential information that will be presented here today? Petitioner?

MR. OKANO: No, there will be no confidential information presented today by Petitioner Snap.

JUDGE QUINN: Thank you, I just wanted to confirm that. And Patent Owner?

MR. STEPHENS: No confidential information from Patent Owner Blackberry.

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1 JUDGE QUINN: Okay, thank you so much. All right, before we
2 start the presentation of the parties, we understand there is an objection to
3 one of Petitioner's demonstrative slides.

4 My first question to Petitioner—I would like to get this handled
5 before we begin—is I believe Slide 21 of your demonstrative. Are you
6 planning on discussing the slide in your presentation today?

7 MR. OKANO: Is that the one that is objected to? I believe the
8 objection was to Slide 38.

9 JUDGE QUINN: Slide 38, okay.

10 MR. OKANO: Yes, Petitioner was planning on discussing at least
11 the content of Slide 38.

12 JUDGE QUINN: Okay, so my question to you is, based on what
13 we have seen in the objections, where is that information presented in the
14 briefs?

15 MR. OKANO: So, these cases are not expressly cited in our brief,
16 however, this issue goes to the issue of whether the Patent Owner has met its
17 obligation under 316(b) to demonstrate written descriptions and support.

18 So, they have the burden, unlike for other issues, and they cited some
19 new cases, Federal Circuit cases, in their sur-reply, or I guess their reply
20 after the Board's preliminary guidance. And these cases, we believe, are in
21 part responsive to that final paper that was filed about a week ago.

22 JUDGE QUINN: Okay, but demonstratives are not evidence.
23 Excuse me, demonstratives are neither evidence nor briefs, so the rule is that
24 if it's not in the record as part of your briefing, you cannot discuss that
25 during oral arguments, notwithstanding what you're saying.

26 So, there's got to be a different way for you to introduce this than a
27 slide in your demonstratives.

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1 MR. OKANO: My understanding is that Petitioner can certainly
2 discuss the cases. Perhaps the slide itself will not be presented and it does
3 not necessarily need to be placed into evidence. But Petitioner is not
4 aware of authority that would prohibit the discussion of these cases,
5 especially since Petitioner does not consider them evidence. They're just
6 other Board written decisions that exist as a legal citation in essence.

7 JUDGE QUINN: Okay, did either of these cases arise after your
8 briefing completed?

9 MR. OKANO: They came out very shortly before our briefing was
10 completed, like within a week.

11 JUDGE QUINN: Patent Owner, do you want to add anything to
12 this discussion?

13 MR. STEPHENS: We have nothing to add beyond what was stated
14 in our objection.

15 JUDGE QUINN: I think at this point what we're going to rule is
16 that we are going to sustain the objection and so I'm instructing Counsel for
17 Petitioner to not address this slide during your presentation. Is that
18 understood, Mr. Okano?

19 MR. OKANO: Understood.

20 JUDGE QUINN: Okay, thank you.

21 MR. OKANO: Your Honor, if I may, can I ask one question of
22 clarification?

23 JUDGE QUINN: Yes.

24 MR. OKANO: Is your ruling also that Petitioner may not mention
25 the cases that are on the slide, or just reference the slide itself?

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