

IN THE NAME OF THE PEOPLE

In the matter of

ParkerVision GmbH, represented by its Managing Director Thomas Kober, Helmstedter Straße 12, 10717 Berlin - plaintiff -

Counsel:

Attorneys at Law **Noerr LLP** Brienner Straße 28, 80333 Munich, ref.: M-0466-2017 court box. no. 272

versus

- 1) **Apple Distribution International**, represented by the directors Gene Daniel Levoff, Michael O'Sullivan, Cathy Kearney, Hollyhill Industrial Estate Hollyhill, Cork, Ireland
- Defendant -
- 2) **Apple Inc.**, represented by the Chief Executive Officer (CEO) Timothy Donald Cook, Infinite Loop, Cupertino, CA 95014, United States of America,
- Defendant -
- 3) **Apple Retail Germany B.V. & Co. KG**, legally represented by its general partner Apple Holding B.V., in turn represented by the Directors Alexander Niemczyk and Michael Joseph Boyd Jr., Eschenheimer Anlage 1, 60316 Frankfurt a. Main
- Defendant -

Counsel for 1 - 3:

Attorneys at law **Freshfields Bruckhaus Deringer LLP**, Feldmühleplatz 1, 40545 Düsseldorf, ref.: 130239-0143 WPW

Counsel for 1)- 3):

Attorneys at Law **HOYNG ROKH MONEGIER Partnerschaftsgesellschaft**, Steinstraße 20, 40212 Düsseldorf, ref.: 170807_4901_17_KE_DE

for infringement of patent EP 1 135 853 B1 "Integrated frequency translation"

Based on the hearing on 15 March 2019, by Presiding Judge at the Regional Court Dr. Zigann, Judge at the Regional Court Klein and Judge at the Regional Court Schmitz, the 7th Civil Division of the Munich Regional Court I, issued the following

Final judgement

1. The action is dismissed.
2. The plaintiff bears the costs of the legal proceedings.
3. The judgment is provisionally enforceable for the defendants against provision of a security of 110 % of the respective enforceable amount.

Facts of the case

The plaintiff is the registered proprietor of the European patent 1 135 853 (patent in suit) and is suing the defendants on account of patent infringement. Patent claims 1 and 10 are worded as follows in the English original:

1. Apparatus for down-converting and filtering an input signal having a carrier frequency, comprising:

a) sampling means for sampling the input signal at a sampling frequency of less than twice the carrier frequency to produce an input sample of a down-converted image of the input signal, wherein said sampling means includes a switch and a capacitor, wherein said switch undersamples said input signal according to a control signal, and wherein the control signal includes pulses having non-negligible pulse widths, wherein said pulses cause said switch to close and sub-sample the input signal over said pulses, wherein energy is transferred from the input signal and stored using said capacitor during said pulses, and wherein the downconverted image is generated from the transferred energy;

b) delaying means for generating one or more delayed instances of an output signal; and

c) combining means for combining at least the input sample with the one or more delayed instances of the output signal to generate an instance of the output signal.

10. Apparatus according to any preceding claim, wherein the storage of energy using said capacitor substantially prevents accurate voltage reproduction of the input signal during said pulses.

The figures shown below (Figures 24, 45 and 53A) show preferred embodiments of the invention, which the plaintiff, however, claims is not true for Figure 24.

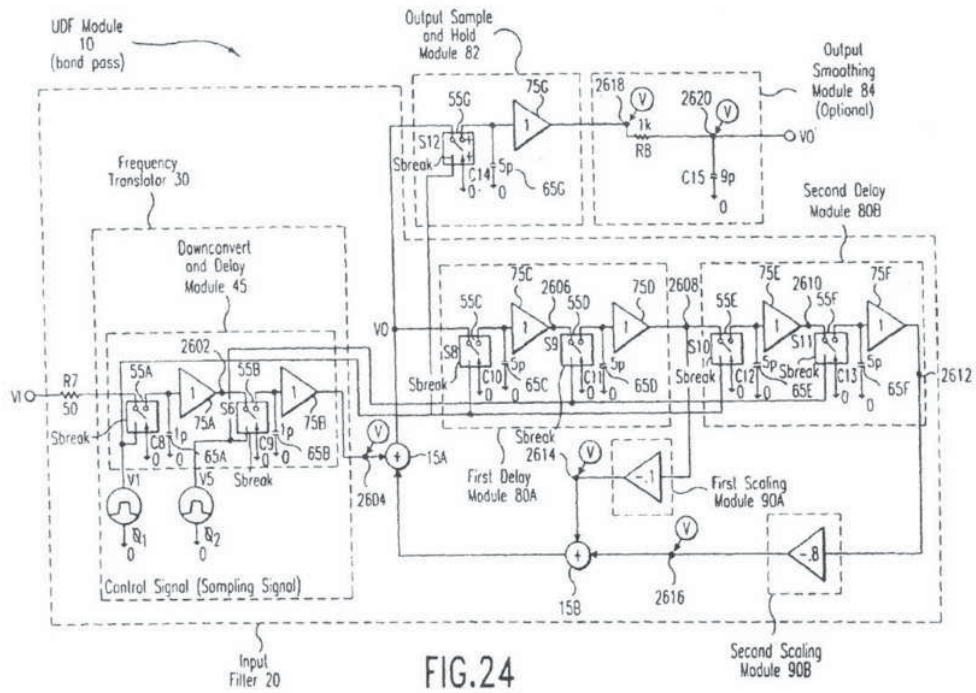


FIG. 24

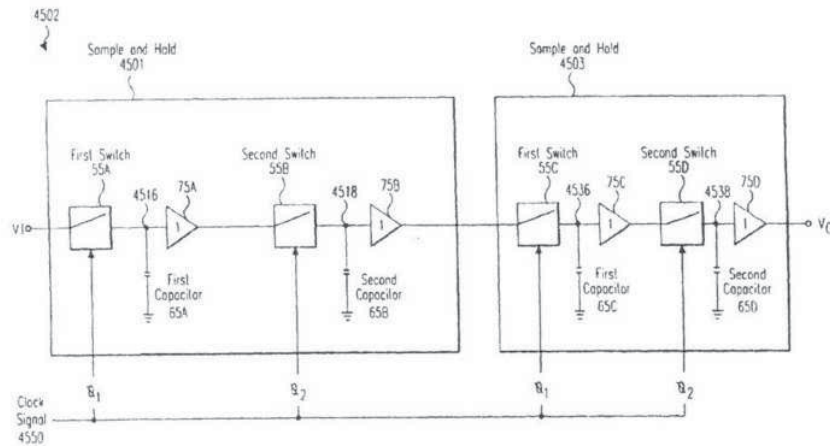


FIG. 45

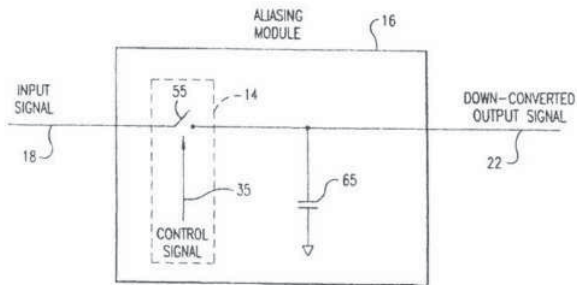


FIG. 53A

The defendants sold smartphones of defendant 2) that were equipped with the attacked chip “PMB 5750”.

The plaintiff asserts that the attacked embodiment literally infringes the patent in suit. This essentially results from the simulations it performed based on an extensive TechInsights report (see in particular Exhibit KE8 and KE11).

The plaintiff requests, and clarifies that the request for injunctive relief is supposed to extend to all embodiments that are essentially the same:

- I. The defendants are ordered
 1. upon pain of an administrative fine due of up to EUR 250,000 for each case of non-compliance, alternatively administrative detention of up to 6 months, or administrative detention of up to six months, and in the event of repeated non-compliance administrative detention of up to two years, with the detention to be executed on the respective managing director, to refrain from

offering, placing on the market, or using or importing for the above purposes in the Federal Republic of Germany, mobile telephones - in particular the mobile telephone “iPhone 7” (model A1778) -, which contain an apparatus for down-converting and filtering an input signal having a carrier frequency, comprising:

a) a sampling means for sampling the input signal at a sampling frequency of less than twice the carrier frequency, to produce an input sample of a down-converted image of the input signal, wherein the sampling means includes a switch and a capacitor, wherein said switch undersamples said input signal according to a control signal and wherein the control signal includes pulses having non-negligible pulse widths, wherein said pulses cause said switch to close and sub-sample the input signal over said pulses, wherein the energy is transferred from the input signal and stored using said capacitor during said pulses, and wherein the downconverted image is generated from the transferred energy;

b) a delaying means for generating one or more delayed instances of an output signal;

c) a combining means for combining at least the input sample with the one or more delayed instances of the output signal to generate an instance of the output signal;

(Claim 1)

in particular if the storage of energy using said capacitor substantially prevents accurate voltage reproduction of the input signal during said pulses (claim 10);

2. to provide information to the plaintiff regarding the scope within which the defendants have committed the actions referred to in no. 1.1. since 07/02/2017, specifying
 - a) the names and addresses of the manufacturers, suppliers and other previous owners,
 - b) the names and addresses of the commercial customers and sales outlets for which the products according to 1.1 were intended;
 - c) the number of products manufactured, delivered, received or ordered according to no. 1.1, as well as the prices which were paid for the relevant products,

wherein

- as evidence of the information provided, copies of the relevant purchase vouchers i.e. invoices, alternatively delivery notes, order confirmations or clearance certificates have to be submitted,
- whereby on the purchase vouchers, details of any information above and beyond that required which is subject to secrecy may be blackened out;

3. to render account to the plaintiff regarding the scope within which it has committed the actions referred to in 1.1 since 07/02/2017, submitting a uniform and orderly statement specifying
 - a) the quantity of products obtained or ordered as well as the names and addresses of manufacturers, suppliers and other previous owners, and - in the event of several partial orders - marking the parts of the orders which belong together;
 - b) individual deliveries, broken down according to the quantities delivered, the delivery times and prices, including any type designations as well as the names and addresses of the customers and sales outlets;
 - c) individual offers, broken down according to the quantities offered, the times and prices of the offers, including the type designations, and the names and addresses of the recipients of the offers;
 - d) the nature of the advertising performed, broken down according to the advertising media, their circulation figures, dissemination period and area of coverage;
 - e) the actual costs broken down on the basis of the individual cost factors and the profit made."

wherein the defendants shall reserve the right to not communicate the names and addresses of the non-commercial customers and recipients of offers to the plaintiff, but to a chartered accountant registered in Germany and named by the plaintiff and pledged to secrecy, provided the defendants bear the accountant's costs and authorise him to disclose to the plaintiff, upon specific inquiry, if a certain customer, recipient of an offer and/or delivery is included in the accounts rendered;

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