

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

NEONODE SMARTPHONE LLC,
Patent Owner.

IPR2021-00144
Patent 8,095,879 B2

Record of Oral Hearing
Held: September 6, 2022

Before KARA L. SZPONDOWSKI, CHRISTOPHER L. OGDEN, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

IPR2021-00144
Patent 8,095,879 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing Tuesday, September 6, 2022, commencing at 1:00 p.m. EDT, via Videoconference.

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

1:00 p.m.

JUDGE OGDEN: Hello, everybody. Welcome to the Patent Trial and Appeal Board. This is the oral hearing in IPR2021-00144 between Petitioner Samsung Electronics Co. Ltd., Samsung Electronics America, Inc. and Apple, Inc. and between Patent Owner Neonode Smartphone, LLC. The challenged patent is US patent number 8,095,879. I am Judge Ogden and with me today are Judges Szpondowski and Howard.

So let's start with counsel introductions. Who is appearing today for Petitioner?

MR. HOLT: Thank you, Your Honor. This is David Holt from Fish & Richardson. I'm joined by lead counsel Karl Renner and Ms. Tiffany Miller on behalf of Petitioner.

JUDGE OGDEN: Okay, thank you.

And who is appearing on behalf of Patent Owner? Do we have Patent Owner on the line?

MR. LOWENSTEIN: Can you hear me?

JUDGE OGDEN: Yes.

MR. LOWENSTEIN: Okay, my apologies. Good morning, Your Honors, Nathan Lowenstein of Lowenstein & Weatherwax on behalf of Patent Owner. I'm joined by my colleagues, Parham Hendifar, I believe Kenneth Weatherwax is dialed in, and my new colleague as of one hour ago, Robert Pistone, is also in the room.

JUDGE OGDEN: Okay, thank you, Mr. Lowenstein.

1 This hearing, as usual, is open to the public but the parties have
2 indicated that there might arise a need to discuss matters that are under seal
3 yet under the protective order.

4 So we've indicated to the parties by email that if the need arises for
5 either party to discuss such information that's covered by the protective
6 order then the party can raise the issue with the panel during the hearing and
7 can reserve up to 10 minutes of the party's remaining time that would be
8 used during a closed portion at the end of the hearing that will be open only
9 to people who are authorized under the protective order.

10 So do either party at this time have any questions or comments about
11 that that they'd like to raise at this point? First, Petitioner?

12 MR. HOLT: No, Your Honor.

13 JUDGE OGDEN: For Patent Owner?

14 MR. LOWENSTEIN: No, Your Honor.

15 JUDGE OGDEN: Okay, thank you. Let me just go over a few
16 preliminary matters. I'd like to thank the parties for adapting to our video
17 procedures during the pandemic which, you know, I mean, there's some
18 special things to think about. One is that we want to make sure that each of
19 the parties is able to hear and observe what's happening during the hearing
20 and also to have the opportunity to be heard.

21 So if there are any technical problems please let us know as soon as
22 possible, possibly by calling the PTAB staff so that we can fix the problem
23 or if you're disconnected so that we can get you connected again. And if
24 necessary we'll pause the hearing so that we can work out any technical
25 problems.

1 And also the panel and the parties should have copies of all of the
2 record and of all the demonstrative exhibits but it would be helpful to us and
3 to the court reporter to please identify the particular slide that you're on and
4 the particular place in the record, including the paper or exhibit number and
5 the page within the records so that we could, everyone can go along with
6 you while you're discussing the demonstrative or the record.

7 So according to the terms of the oral hearing order each side has a
8 total of 60 minutes to present their arguments. And since Petitioner is the
9 party with the burden of proof, Petitioner will proceed first followed by
10 Patent Owner. And then if the party has reserved rebuttal time Petitioner can
11 make rebuttal arguments and then Patent Owner can also make surrebuttal
12 arguments.

13 And I will be keeping track of the time on a stopwatch and I'll try to
14 give you a warning as your allotted time draws to a close.

15 So first we'll go to Petitioner. Petitioner, how much of your 60
16 minutes would you like to reserve for rebuttal, if any?

17 MR. HOLT: We would like to reserve 15 minutes, Your Honor,
18 please.

19 JUDGE OGDEN: Fifteen you said?

20 MR. HOLT: Yes, Your Honor.

21 JUDGE OGDEN: Okay. So 45 minutes in your initial time and then
22 15?

23 MR. HOLT: Yes, Your Honor.

24 JUDGE OGDEN: Okay. You can begin when you're ready.

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