

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VOLKSWAGEN GROUP OF AMERICA, INC., SUBARU OF  
AMERICA, INC., and VOLVO CAR USA, LLC,  
Petitioner,

v.

STRATOSAUDIO, INC.  
Patent Owner.

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IPR2021-00721<sup>1</sup>  
Patent 8,166,081 B2

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Before JUSTIN T. ARBES, HYUN J. JUNG, and  
KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

ORDER  
Request for Supplemental Briefing  
*37 C.F.R. § 42.5*

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<sup>1</sup> IPR2022-00203 was joined with this proceeding.

Petitioner, Volkswagen Group of America, Inc., filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 9–11 and 23 (the “challenged claims”) of U.S. Patent No. 8,166,081 B2 (Ex. 1001, “the ’081 Patent”). Patent Owner, StratosAudio, Inc., filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Pursuant to an Order, Paper 11, Petitioner filed a Preliminary Reply, Paper 12, and Patent Owner filed a Preliminary Sur-reply, Paper 14, to address certain issues raised in Patent Owner’s Preliminary Response. On October 22, 2021, *inter partes* review was instituted on all claims and all grounds raised in the Petition. Paper 16.

Claim 9 is the only independent claim of the ’081 Patent challenged in the Petition. Independent claim 9 recites:

- 9[pre] A system for combining multiple media comprising:
- 9[a] a first receiver module configured to receive at least a first media content and data enabling the identification of a specific instance of the first media content from a first broadcast medium;
  - 9[b] a second receiver module configured to receive at least a second media signal content and uniquely identifying data specific to at least the second media content,
  - 9[c] the second media content received discretely from the first media content;
  - 9[d] an output system configured to present concurrently the first media content and the second media content on an output of the first receiver module or the second receiver module;
  - 9[e] an input module configured to receive at least a response input responsive to the second media content; and

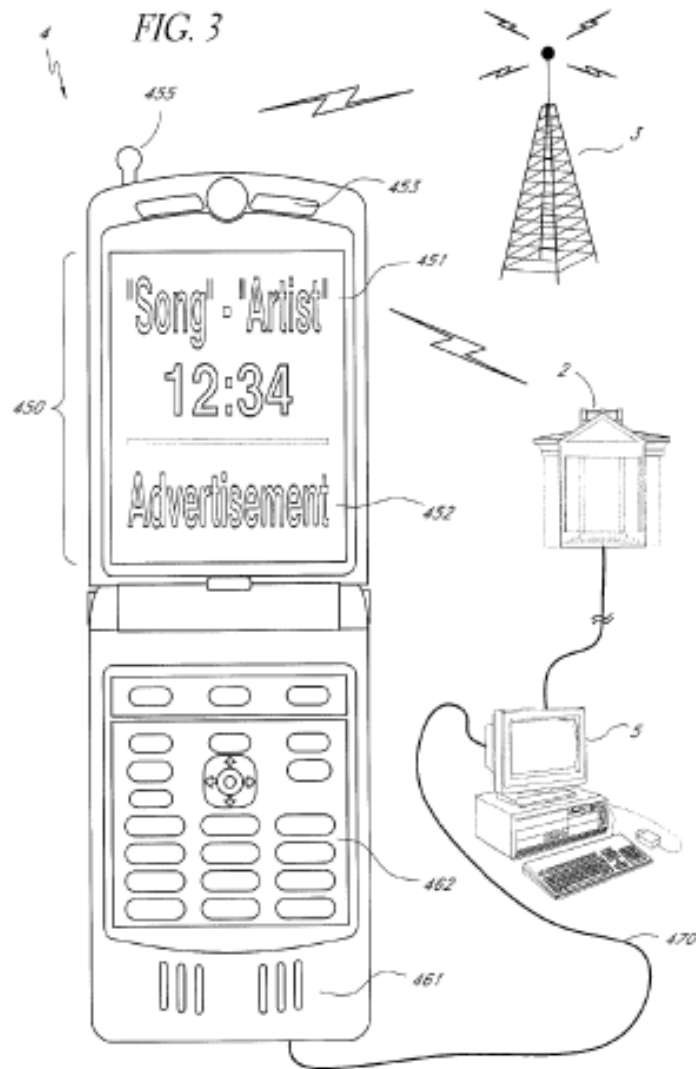
9[f] a transmitting module configured to transmit a response message having at least the uniquely identifying data specific to the second media content to a computer server.

Ex. 1001, 35:22–41 (bracketed labelling designated by Petitioner; *see* Pet. 15–42).

After institution, Patent Owner filed a Response, Paper 27 (“Response” or “Resp.”), Petitioner filed a Reply, Paper 31 (“Reply”), and Patent Owner filed a Sur-reply, Paper 36 (“Sur-reply”). We provide a brief summary of the parties’ arguments with respect to particular limitations of claim 9 for context.

In its Response, Patent Owner argues that claim 9 “recites a structural limitation of the system: that the first receiver module and the second receiver module each have a corresponding output” and that “[t]he system is further configured to concurrently display the first and second media content on one of these two outputs.” Resp. 13 (citing Ex. 2019 ¶ 52). Patent Owner argues that “[t]he specification explains that either the primary device 4 or the ancillary device 5 may have the capability to present both the *first* and *second media content*.” *Id.* at 14. “As drafted,” Patent Owner argues, “claim 9 is directed to those instances when the ancillary device receives the *second media content* separately and discretely from the *first media content*.” *Id.* (citing Ex. 2019 ¶ 53).

Figure 3 of the ’081 Patent is shown below.



The '081 Patent explains that “the embodiment of a primary device presented in [Figure] 3 is a radio-enabled cellular phone with a display panel 450.” Ex. 1001, 19:11–13. The '081 Patent also explains that ancillary device 5 “may take the form of any device such as those defined for primary device 4 or an adjunct to a primary device 4 such as a personal computer, server, digital media player docking station, video player, printer, clock, telephone, answering machine, recorder, remote control and/or the like.” *Id.* at 8:53–57.

In its Response, Patent Owner goes on to argue that Element 9[d], however, requires two outputs. Ex. 2019 ¶ 78. Element 9[d] recites a structure of the claimed system: it must have a first “output” of the “first receiver module” and a second “output” of the “second receiver module.” Each output must have the capability of presenting—audibly, visibly or otherwise—media content. Ex. 2019 ¶ 78. Further, at least one of these “outputs” must have the capability to perform concurrent presentation of two pieces of media content— e.g., audibly and visibly. Ex. 2019 ¶ 78.

Resp. 31.

In Reply, Petitioner argues that “outputting the first/second media content using a single device—as opposed to two separate devices—sufficiently satisfies the claim.” Reply 12 (citing Ex. 1016 ¶¶ 31–35). For example, Petitioner argues that

outputting audio data (“first media content”) via a speaker with corresponding visual data (“second media content”) via a display using a single device would satisfy the claim. Ex. 1016 ¶¶ 31–35; Ex. 1001, [Fig.] 3 (depicting a primary device 4 receiving multiple media content and outputting the content concurrently via a split screen display and/or a display with a speaker).

*Id.*

In its Sur-reply, Patent Owner states that it “does not dispute” Petitioner’s contention that “the specification of the ’081 [P]atent supports a reading where one device can have the ‘necessary modules for receiving both the first and second media content.’” Sur-reply 2 (quoting Reply 8–

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