

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE, INC., LG ELECTRONICS, INC.,  
LG ELECTRONICS U.S.A., INC., AND GOOGLE LLC,  
Petitioner,

v.

GESTURE TECHNOLOGY PARTNERS, LLC,  
Patent Owner.

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IPR2021-00921  
Patent 8,878,949 B2

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Record of Oral Hearing  
Held: September 14, 2022

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Before PATRICK R. SCANLON, GREGG I. ANDERSON, and  
BRENT M. DOUGAL, Administrative Patent Judges.

IPR2021-00921  
Patent 8,878,949 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 Wednesday,  
September 14, 2022, commencing at 1:00 p.m. EDT, via Video-conference.

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

(1:00 p.m.)

1  
2  
3 JUDGE SCANLON: Okay. Thank you. Good afternoon or good  
4 morning, depending on where you're located.

5 Welcome to the Patent Trial and Appeal Board. We're here today for  
6 two hearings; first, in IPR2021-00921 between Petitioner Apple, LG  
7 Electronics, LG Electronics U.S.A., and Google LLC, and Patent Owner  
8 Gesture Technology Partners, LLC.

9 The challenged patent is Patent Number 8,878,949.

10 I'm Judge Scanlon. Joining me today are Judge Anderson and Judge  
11 Dougal.

12 And the hearing for IPR2021-00923 will commence after this hearing  
13 concludes.

14 So, first, let's start with appearances. Who is here for Petitioner,  
15 please?

16 MR. HART: Thank you, Your Honor. Paul Hart for Petitioner Apple.  
17 Joining me today in person, but off camera, is Adam Seitz, my co-counsel  
18 on this matter.

19 JUDGE SCANLON: All right. Thank you.

20 And for Patent Owner, please?

21 MR. WITTENZELLNER: Good afternoon, Your Honor. My name is  
22 John Wittenzellner. I'm with the law firm Williams, Simons & Landis on  
23 behalf of the Patent Owner. And I'm joined by my colleague, Mr. Todd  
24 Landis, who is the lead counsel in this proceeding.

25 JUDGE SCANLON: Very good. Thank you.

1           Because we're conducting this hearing by video, please make every  
2 effort to speak clearly and try to avoid speaking over others. That will assist  
3 our court reporter in making a clear record.

4           Also, try to mute your line when you're not speaking.

5           When referring to materials from your demonstratives, it's helpful if  
6 you provide us with the page number for the slide you're referencing to  
7 improve the clarity of the record, or if you're citing to other exhibits or  
8 papers in the record, provide page number or page and line number, as  
9 appropriate.

10          We have all your slides and documents in front of us, so feel free to  
11 refer to whatever you would like to.

12          And I believe there is a public audio line today. I just wanted to make  
13 everyone aware that others may be listening. I don't believe there is any  
14 confidential information in the record. But if           there is something that's  
15 confidential that you want to discuss, you know, just let us know, so that you  
16 -- we can make accommodations.

17          As set forth in the Hearing Order, each party will have 60 minutes to  
18 present their arguments. Because it bears the burden of persuasion,  
19 Petitioner will go first and may reserve no more than half of its time for  
20 rebuttal.

21          Patent Owner will then have an opportunity to respond and may also  
22 reserve time for sur-rebuttal. We will keep the time to the best of our ability,  
23 and I'll try to provide updates about the remaining time as the hearing  
24 progresses.

25          So with that, we'll start with Petitioner. And please let us know how  
26 much time, if any, you would like to reserve for rebuttal.

1 MR. HART: Thank you, Your Honor. I'd like to reserve 20 minutes  
2 for rebuttal.

3 JUDGE SCANLON: Okay. Very good. Thank you.

4 MR. HART: All right. Well, thanks very much. As with the other  
5 proceedings between these parties, the challenged patent here generally  
6 describes gesture-based control of a device. Unique to the '949 patent,  
7 however, the claims here focus on functionality that permits a user to  
8 perform a gesture before a camera that causes the camera to take a picture.

9 I will sometimes refer to this functionality as an image-capture gesture  
10 today.

11 Just for housekeeping matters, Petitioner's slides have a footnote DX-  
12 and a number to indicate the pages. I will be referencing those DX-  
13 designations throughout today's hearing to guide the -- to guide the  
14 argument.

15 DX-2 provides a summary of the grounds in this proceeding. The  
16 primary reference in both grounds is Numazaki, which the parties discussed  
17 at length yesterday and which teaches numerous gesture-based device  
18 control functionalities. The second reference is Nonaka, and Nonaka  
19 teaches an image-capture gesture, the exact focus of the '924 patent claims.

20 Its goal is to allow users to remotely initiate image capture using a  
21 gesture. It describes numerous benefits that gestures provide over the then-  
22 existing methods of remotely initiating image capture, such as remote  
23 controls and timers.

24 Now, the proposed combination here proposes that a POSITA would  
25 have been motivated by Nonaka to combine two of Numazaki's  
26 embodiments in a single device; namely, the third embodiment, which

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