

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HYUNDAI MOTOR AMERICA,
Petitioner

v.

STRATOSAUDIO, INC.,
Patent Owner

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,688,028**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. MANDATORY NOTICES UNDER 37 C.F.R. §42.8.....	2
III. FEE AUTHORIZATION	4
IV. GROUNDS FOR STANDING.....	4
V. PRECISE RELIEF REQUESTED	4
VI. THE CHALLENGED PATENT	5
VII. PATENT PROSECUTION HISTORY	8
VIII. LEVEL OF ORDINARY SKILL IN THE ART	11
IX. PRIORITY DATE	11
X. CLAIM CONSTRUCTION	12
XI. BRIEF DESCRIPTION OF THE APPLIED PRIOR ART REFERENCES	12
A. Curtin (Ex-1010)	12
B. Crosby (Ex-1006).....	13
C. Alwadish (Ex-1011)	15
D. Koerber (Ex-1012)	17
XII. DETAILED EXPLANATION OF THE UNPATENTABILITY GROUNDS	18
A. Grounds 1 and 2: Claims 11 and 13-20 are rendered obvious by Curtin (Ex-1010) alone or by Curtin in view of Crosby (Ex- 1006);.....	19
1. A POSITA would have been motivated to combine the teachings of Curtin and Crosby, and would have had a reasonable expectation of success in doing so.....	19
2. Independent Claim 11	20
3. Dependent Claims 13-20.....	31

TABLE OF CONTENTS
(continued)

	Page
B. Ground 3: Claims 11, 14-15, and 18 are rendered obvious by Alwadish (Ex-1011)	39
1. Independent Claim 11	39
2. Dependent Claims 14, 15, and 18	48
C. Grounds 4 and 5: Claims 12 and 16 are rendered obvious by Alwadish alone or by Alwadish (Ex-1011) in view of Koerber (Ex-1012).....	52
1. A POSITA would have been motivated to combine the teachings of Alwadish and Koerber and would have a reasonable expectation of success in doing so.....	52
2. Dependent Claims 12 and 16	53
XIII. THE BOARD SHOULD NOT USE ITS DISCRETION TO DENY INSTITUTION UNDER <i>GENERAL PLASTIC</i>	58
XIV. THE BOARD SHOULD NOT USE ITS DISCRETION TO DENY INSTITUTION UNDER <i>FINTIV</i>	60
A. Whether the court granted a stay or evidence exists that one may be granted if a proceeding is instituted.....	61
B. Proximity of the court’s trial date to the Board’s projected statutory deadline for a final written decision.....	61
C. Investment in the parallel proceeding by the court and the parties	63
D. Overlap between issues raised in the petition and in the parallel proceeding	64
E. Whether the petitioner and the defendant in the parallel proceeding are the same party.....	66
F. Other circumstances that impact the Board’s exercise of discretion, including the merits	66
XV. CONCLUSION.....	67

LIST OF EXHIBITS¹

Ex-1001	U.S. Patent No. 8,688,028
Ex-1002	Declaration of Dr. Kevin Almeroth
Ex-1003	Curriculum Vitae of Dr. Kevin Almeroth
Ex-1004	Prosecution History of U.S. Patent No. 8,688,028
Ex-1005	[INTENTIONALLY LEFT BLANK]
Ex-1006	U.S. Patent No. 6,628,928, Filed on December 10, 1999 (“Crosby”)
Ex-1007	[INTENTIONALLY LEFT BLANK]
Ex-1008	[INTENTIONALLY LEFT BLANK]
Ex-1009	Email from Albright Clerk, dated May 4, 2021
Ex-1010	U.S. Patent No. 6,925,489, filed on November 22, 1999 (“Curtin”)
Ex-1011	U.S. Patent No. 5,063,610, issued on November 5, 1991 (“Alwadish”)
Ex-1012	European Patent No. 0 647 377, published on April 12, 1995 (“Koerber”)
Ex-1013	[INTENTIONALLY LEFT BLANK]
Ex-1014	[INTENTIONALLY LEFT BLANK]
Ex-1015	[INTENTIONALLY LEFT BLANK]
Ex-1016	[INTENTIONALLY LEFT BLANK]
Ex-1017	[INTENTIONALLY LEFT BLANK]
Ex-1018	[INTENTIONALLY LEFT BLANK]

¹ Four-digit pin citations that begin with “0” are to the page stamps added by Hyundai in the bottom right corner of the exhibits. All other pin citations are to original page, column, paragraph, and/or line numbers.

Ex-1019	[INTENTIONALLY LEFT BLANK]
Ex-1020	Plaintiff's Preliminary Infringement Contentions, dated May 13, 2021, including Claim Chart for '028 Patent ("Infringement Contentions")
Ex-1021	Petitioner's Stipulation Letter to Patent Owner, dated July 22, 2021
Ex-1022	U.S. Patent No. 5,948,061 A, issued Sept. 7, 1999 ("Merriman")
Ex-1023	U.S. Patent No. 5,778,181 A, issued July 7, 1998 ("Hidary")
Ex-1024	U.S. Patent Application Ser. No. 09/953,335

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.