

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HYUNDAI MOTOR AMERICA,
Petitioner

v.

STRATOSAUDIO, INC.,
Patent Owner

Case No. IPR2021-01303
Patent No. 8,688,028

**DECLARATION OF DR. KEVIN C. ALMEROOTH IN SUPPORT OF
PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE TO
PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,688,028**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. DR. HART ATTEMPTS TO RECAST THE ALLEGED INVENTION AS REQUIRING “DATA MINING”	2
III. CLAIM CONSTRUCTION	3
A. “broadcast segment” (claims 11, 16, and 17).....	3
B. “media content” (claims 11 and 17).....	8
C. Other Limitations	8
IV. CURTIN ALONE (GROUND 1) AND CURTIN IN VIEW OF CROSBY (GROUND 2) INVALIDATE CLAIMS 11 AND 13-20.....	10
A. Curtin discloses or teaches all elements.....	12
B. Curtin in view of Crosby discloses or teaches all elements challenged in Dr. Hart’s Declaration	21
V. ALWADISH ALONE (GROUNDS 3-4) AND ALWADISH IN VIEW OF KOERBER (GROUND 5) INVALIDATE CLAIMS 11, 12, 14-16, AND 18	26
A. Alwadish discloses or teaches all elements challenged in Dr. Hart’s Declaration	27
B. Alwadish in view of Koerber discloses or teaches all elements challenged in Dr. Hart’s Declaration	33
VI. CONCLUSION.....	34

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
Ex-1025	Declaration of Bradley M. Berg In Support of Petitioner’s Motion for Pro Hac Vice Admission Pursuant to 37 C.F.R. §42.10(C)
Ex-1026	Reply Declaration of Dr. Kevin Almeroth
Ex-1027	<i>StratosAudio, Inc. v. Hyundai Motor Am.</i> , No. 6:20-cv-01125, Dkt. No. 79 (W.D.Tex. Dec. 15, 2021) (“Order”)
Ex-1028	[INTENTIONALLY LEFT BLANK]
Ex-1029	Transcript of the Deposition of Dr. John C. Hart
Ex-1030	<i>StratosAudio, Inc. v. Hyundai Motor Am.</i> , No. 6:20-cv-01125, Dkt. No. 55 (W.D.Tex. Dec. 15, 2021) (“StratosAudio Claim Construction Brief”)

I. INTRODUCTION

1. I, Dr. Kevin C. Almeroth, declare as follows:

2. I am the same Dr. Kevin C. Almeroth that submitted a Declaration in this proceeding (Ex-1002). I submit this Reply Declaration on behalf of Hyundai Motor America (“Hyundai” or “Petitioner”) in response to the Declaration of Dr. John C. Hart (Ex-2020) (“Hart Decl.”) on behalf of Patent Owner StratosAudio, Inc. (“StratosAudio” or “Patent Owner”).

3. In preparation for this Reply Declaration, I have considered the materials discussed in my Declaration (Ex-1002) and this Reply Declaration, including, for example, U.S. Patent No. 8,688,028 (“the ’028 Patent”) (Ex-1001), the references cited by the ’028 Patent, the prosecution history of the ’028 Patent, various background articles and materials referenced in my Declaration (Ex-1002) and this Reply Declaration, the prior art references identified in my Declaration (Ex-1002) and this Reply Declaration, the Declaration of Dr. John C. Hart (Ex-2020) including the references cited therein, and the transcript of the Deposition of John C. Hart, Ph.D. (Ex-1029). In addition, my opinions are further based on my education, training, experience, and knowledge in the relevant field.

4. I am being compensated at my ordinary and customary consulting rate for my work, which is \$750 per hour. My compensation is in no way contingent on the nature of my findings, the presentation of my findings in testimony, or the

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.