

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

**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE TO
PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 8,688,028**

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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

StratosAudio, Inc.’s (“StratosAudio’s”) Patent Owner Response (“POR”) fails to distinguish Claims 11-20 (“the challenged claims”) of U.S. Patent No. 8,688,028 (“the ’028 Patent”) from the prior art and the challenged claims should be cancelled. Ex-1026, ¶¶1-6, 60. Petitioner reiterates the corresponding sections of the Petition (Pet.) for Grounds 1-5.

II. STRATOSAUDIO ATTEMPTS TO RECAST THE ALLEGED INVENTION AS REQUIRING “DATA MINING”

Throughout the POR, StratosAudio applies an unrecited, unstated requirement for “data mining.” As explained below, data mining appears nowhere in the claims and, at most, is one of several potential objectives of the alleged invention. *See* Ex-1001, 3:9-15; Ex-1026, ¶¶7-9.

This faulty premise underlies many of StratosAudio’s arguments, such as its conclusion that “the ‘aggregates’ of Claim 11 are referring to the inclusion of the additional data regarding the purchase that would be useful for the specification’s data mining” (POR, 17-18), or that “broadcast segment” means “a *discretely identifiable* portion of programming as broadcasted” (POR, 20).

But Claim 11 and its dependents do not touch on the server side where data mining can be performed to collect information regarding purchasing activity. *See, e.g.,* Ex-1001, 8:41-44 (“The data collected through ‘data mining’ of sales transactions can be sold to companies interested in tracking demographic

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