

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner

v.

SCRAMOGE TECHNOLOGY, LTD.,
Patent Owner

IPR2022-00573
Patent 7,825,537 B2

Record of Oral Hearing
Held: June 15, 2023

Before JAMESON LEE, KRISTINA M. KALAN, and MICHELLE N.
WORMMEESTER, *Administrative Patent Judges*.

IPR2022-00573
Patent 7,825,537 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Thursday, June 15, 2023, commencing at 1:00 p.m., via the WebEx platform.

PROCEEDINGS

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2 JUDGE WORMMEESTER: -- Good afternoon, everyone. We have
3 our final hearing in IPR2022-00573, Apple v Scramoge Technology, which
4 concerns US patent number 7,825,537. I'm Judge Wormmeester. Also
5 appearing remotely are my colleagues, Judges Lee and Kalan. Thank you
6 for being here today. We want to start off by clarifying a few items. First,
7 our primary concern is your right to be heard. If at any time during the
8 proceedings you encounter technical or other difficulties that undermine
9 your ability to adequately represent your client, please let us know
10 immediately. For example, by contacting the team members who provided
11 you with connection information. Second, for the benefit of the judges,
12 opposing counsel, and court reporter, please identify yourself each time you
13 speak. When not speaking, please mute yourself. Third, we have the entire
14 record, including demonstratives. When referring to demonstratives, papers,
15 or exhibits, please be explicit and identify any slide numbers or page
16 numbers. Finally, please note that members of the public may be listening to
17 this oral hearing. Does anyone have any concerns about that?

18 MR. COOPER: No, Your Honor.

19 MR. JARRATT: No, Your Honor.

20 JUDGE WORMMEESTER: Great. Okay, let's get the parties'
21 appearances, please. Who do we have for petitioner?

22 MR. JARRATT: Good afternoon, Your Honors. This is Scott Jarratt
23 with Haynes and Boone. I'm lead counsel for Petitioner, Apple. And also
24 appearing for petitioner is Andy Ehmke, also with Haynes and Boone. And
25 Mr. Emke will be presenting today.

1 JUDGE WORMMEESTER: Great. Thank you. Welcome. And for
2 Patent Owner, who do we have?

3 MR. COOPER: Thank you, Your Honors. This is Brett Cooper. I am
4 lead counsel for the Patent Owner of the '537 patent. With me is my
5 colleague, John Petrsoric. And Mr. Petrsoric will be handling the argument
6 today on the '537.

7 JUDGE WORMMEESTER: Thank you. Welcome. We set forth the
8 procedure for today's hearing, but just to remind everyone the way this will
9 work, each party will have 60 minutes to present arguments. Petitioner will
10 go first and may reserve rebuttal time. Patent Owner will then present its
11 response and may reserve sur-rebuttal time. Please remember that the
12 demonstratives you submitted are not part of the record. The record of the
13 hearing will be the transcript. We will maintain the clock and give you a
14 warning when you're reaching the end of your argument. Are there any
15 questions before we proceed?

16 MR. JARRATT: No, Your Honor.

17 MR. COOPER: No, Your Honor.

18 JUDGE WORMMEESTER: Counsel, will you be reserving any
19 time?

20 MR. EHMKE: Yes, Your Honor. This is Andy Ehmke. Petitioner
21 will be reserving 10 minutes for rebuttal time.

22 JUDGE WORMMEESTER: Ten minutes. Okay. So, you will have
23 50 minutes of argument time here. You may begin when you're ready.

24 MR. EHMKE: Thank you, Your Honors. Referring to Petitioner's
25 demonstratives, we'll start with slide two, and what we wanted to do here is
26 provide an overview of what we believe are the remaining issues in this

1 proceeding. The initial petition included six grounds broken into two sets.
2 Grounds 1A and 1B were based off of the Baarman primary reference.
3 Grounds 2A through 2D were based off the Flowerdew reference.

4 With respect to ground 2A, there are no open issues, and there's
5 nothing for us to address today in the oral argument. Regarding 1A and 1B,
6 Patent Owner has disputed the relevance of the Baarman reference as a
7 primary reference, as well as the combinations associated with Baarman.
8 For grounds 2B, 2C and 2D, Patent Owner's disputed the combinations of
9 Flowerdew with the secondary references. In terms of the claims at issue,
10 we're only down to a handful of claims where there are substantive grounds
11 raised. Ground 1A, there's claims 5 and 16. Through ground 2B, there are
12 claims 4, 5, 15 and 16.

13 So to address these issues, we'll start with slide three, whether or not
14 Baarman is entitled to its priority date with respect to the provisional. As we
15 have stated in the petition reply, Baarman would be entitled to its priority
16 date through the Drinkware test to establish that the provisional provides
17 support for the claims in accordance with one. Well, we addressed that on
18 slide four. In the petition, where we say that in accordance with Drinkware,
19 the Baarman provisional provides support for at least one claim of Baarman.
20 The support for the provisional --- or, the utility of Baarman was set forth in
21 the petition in a chart citing to the provisional correlating each limitation to
22 the location of the provisional where the necessary support for the utility
23 was provided. This was the evidence that shows that the provisional
24 provides the support for the utility. That evidence included not just these
25 citations, but referenced the wiring diagrams and circuit diagrams contained
26 in the provisional.

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