

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ERICSSON INC. and TELEFONAKTIEBOLAGET LM
ERICSSON,
Petitioner,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

Case IPR2014-01412

Patent 5,963,557

Case IPR2014-01471

Patent 6,370,153 B11

Held: December 15, 2015

BEFORE: BRIAN J. McNAMARA, JUSTIN BUSCH, MIRIAM
L. QUINN, Administrative Patent Judges.

The above-entitled matter came on for hearing on Tuesday,
December 15, 2015, commencing at 1:32 p.m., at the U.S. Patent
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2014-01412 & IPR2014-01471

Patent 5,963,557 & 6,370,153 B11

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

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3 JUDGE McNAMARA: Good afternoon. This is the
4 oral hearing in Case IPR2014-01412 and -01471. We'll have a
5 consolidated hearing. I am Judge McNamara. Judge Quinn and
6 Judge Busch are participating remotely and so I remind the
7 parties to identify which demonstratives they're referring to at all
8 times so that the remote judges can see them as well.

9 Beginning with the Petitioner, would the parties please
10 introduce themselves.

11 MR. SPEARS: Your Honor, Steven Spears
12 representing the Petitioner Ericsson and with me is Matt
13 McCloskey.

14 MS. GORDON: Thank you, Your Honor. Lori Gordon
15 from the law firm of Sterne Kessler Goldstein Fox. I'm
16 representing Patent Owner Intellectual Ventures II and with me
17 today is Steve Peters.

18 JUDGE McNAMARA: Thank you very much.

19 All right. We have allocated 60 minutes of total
20 argument time to each party. We'll hear from the Petitioner first
21 with respect to the challenged claims on which we instituted.
22 After that, we'll hear from the Patent Owner and then the
23 Petitioner will have any time it reserved to offer rebuttal.

24 Is everybody ready to begin?

25 MS. GORDON: Yes, Your Honor.

1 MR. SPEARS: Yes, Your Honor.

2 JUDGE McNAMARA: Okay. Well, let's begin with
3 the Petitioner then. Is there some amount of time you'd like me to
4 reserve for rebuttal?

5 MR. SPEARS: Yes, Your Honor, 20 minutes for
6 rebuttal, please.

7 May it please the Board, I would add another IPR that's
8 at issue here. We have the 2015-1077 related to Claims 11 and
9 25 of the '557 patent, which was joined with the 1412 and so that
10 is at issue here as well.

11 Turning to slide 2, this is an outline of my presentation.
12 We're going to start with the background information, take the
13 '557 patent first and then proceed to the '153 patent where there's
14 some duplication between the arguments.

15 Going to slide 3, an overview of the two patents. The
16 '153 patent is a CIP of the '557 patent. The added material is not
17 alleged by either party to be of any significance to what's at issue
18 here and both patents deal with multiple access communication
19 networks.

20 What was allegedly new about these two patents is
21 stated in the abstract and you have in a multiple access network
22 using three types of communication channels, namely one or
23 more upstream payload channels, one or more upstream control
24 channels and one or more downstream channels. So you have
25 this two-up, one-down configuration.

1 The distinction with the prior art is best shown in the
2 comparison between Figures 2 and 7 on slide 4 now. So Figure 2
3 shows the prior art. Multiple access networks have been known
4 for decades before this. You have a head end number 12, which
5 is the controller. You have multiple stations, these SSs,
6 communicating with each other using shared resources, the
7 upstream control channel -- I'm sorry, the upstream channel and
8 the downstream channel. And then in the upstream channel you
9 have both control and payload data being transmitted.

10 Figure 7 shows what's allegedly new and the only real
11 distinction here is that the upstream channel has been split into
12 two separate channels, an upstream control channel and an
13 upstream payload channel. Again, the --

14 JUDGE McNAMARA: And those two channels are
15 different frequencies; is that right?

16 MR. SPEARS: Yes, Your Honor. It has two separate
17 frequencies and that's what's allegedly new here.

18 This argument was made during prosecution to the '557
19 patent as the bases for distinguishing prior art. You see, I'm
20 sorry, in the second paragraph on slide 5 the claimed invention
21 uses a separate upstream channel for contention reservation
22 request and another upstream channel for payload transmission.

23 Going to slide 6, with respect to the '153 patent, the
24 same argument made here stated the claimed invention uses a

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