

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRIME FOCUS CREATIVE SERVICES CANADA INC.,
Petitioner,

V.

Legend3D, INC.,
Patent Owner.

Case IPR2016-01243
Patent 7,907,793 B1

Record of Oral Hearing
Held: September 14, 2017

Before LYNNE E. PETTIGREW, CARL M. DEFRANCO, and
KAMRAN JIVANI, *Administrative Patent Judges*.

Case IPR2016-01243
Patent 7,907,793 B1

APPEARANCE:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:
(CASE RESTED - NO PARTICIPATION)

The above-entitled matter came on for hearing Thursday, September 14, 2017, commencing at 9:30 a.m., at the U.S. Patent & Trademark Office, 600 Dulany Street, Alexandria, Virginia 22314.

PROCEEDINGS

1
2 JUDGE PETTIGREW: Please be seated. Good morning,
3 everyone. This is a hearing for IPR 201601243, Prime Focus
4 Creative Services Canada, Inc., the Legend 3D, Inc. Counsel
5 for Patent Owner of Legend 3D notified us earlier this week
6 that Patent Owner has decided to rest on its papers and not
7 participate in the hearing. Counsel for Petitioner, Prime
8 Focus, is in attendance and as indicated in our hearing
9 order, Petitioner will have 60 minutes to present its
10 arguments.

11 Judge Jivani is joining us remotely by video and will
12 not have the benefit of the visual cues in the room, so when
13 you speak about a demonstrative or an exhibit, please
14 identify the particular slide number or exhibit number and
15 page. He does have a copy of the demonstratives. Also,
16 please be sure to speak into the microphone to ensure that
17 Judge Jivani can hear you.

18 Before we begin, we have a brief housekeeping item
19 regarding the demonstratives. First, we remind counsel that
20 demonstratives are not evidence. They are instead aids to
21 facilitate the panel's understanding of the parties'
22 arguments presented at the hearing. In this case, Patent
23 Owner, earlier this week, filed objections to five of Patent
24 Owner's -- I'm sorry, Petitioner's demonstratives,
25 specifically Slides 26, 27, 35, 37, and 41. The panel has
26 reviewed the proposed demonstratives and we agree with the

1 Patent Owner that those particular slides touch on the issue
2 of inequitable conduct, which, according to our hearing
3 order, the parties are not to address at the hearing. So
4 accordingly, Petitioner is not to use those slides in its
5 presentation. Again, those are Slides 26, 27, 35, 37 and 41,
6 at least as they were numbered in the version that was sent
7 to us earlier this week. Counsel, you may begin when ready.

8 MR. GLUCOFT: Thank you, Your Honor. Your Honor, I
9 have hard copies of the presentation.

10 May I approach?

11 JUDGE PETTIGREW: Yes, please.

12 MR. GLUCOFT: There are actually two copies within
13 each binder. One is just connected with a binder clip. The
14 other one is in the three-ring itself.

15 JUDGE PETTIGREW: Thank you.

16 MR. GLUCOFT: Thank you, Your Honor. I would like to
17 begin, first, by introducing myself, Joshua Glucoft of Irell
18 & Manella, on behalf of Petitioner, Prime Focus, Creative
19 Services, Canada. I am joined today by my colleague, Mike
20 Fleming, also of Irell & Manella. I will be addressing today
21 the invalidity of the '793 patent in the petition, and my
22 colleague, Mike, will be addressing the Patent Owner's motion
23 to amend. And I would like to reserve 30 minutes of time for
24 Mike to address the motion to amend.

25 I would like the start this morning on Slide 2, which
26 is just a brief overview of the filing dates of the patent

1 family. And I will assume that the board is familiar with
2 the history of the '793 patent challenge today. But one
3 thing I wanted to point out is that the '081 patent and
4 its divisional '670 patent, today, I am going to be referring
5 to those patents as the "Alleged Parents."

6 Moving on to Slide 3, we have an overview of the
7 petition, which is pretty simple at a high level. The short
8 of it is that the challenge '793 patent cannot claim priority
9 to the alleged parents, since is it a continuation in part
10 that added the entirely new concept of depth to the family.
11 And the '793 patent is therefore invalid over the combination
12 of the alleged parents, which are prior art, as we will
13 demonstrate with prior art Passmore or Sullivan, both of which
14 teach the new matter of depth.

15 Moving on to Slide 4, is a road map of the petition
16 and what I will be presenting today. And we are going to
17 start with a claim construction of the term "Depth
18 Parameter."

19 Moving on to Slide 5 --

20 JUDGE JIVANI: In that regard, starting with the claim
21 construction of depth parameter, one of the things I have
22 struggled with in the papers is the specific construction that
23 you seek of the term "Depth Parameter." I note that the
24 petition seems to say at page 10, "A depth parameter relates
25 to the perceived distance of an object from the camera." But
26 the reply and Dr. Forsyth's testimony are quite different

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