

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

Case IPR2016-01404
Patent 6,968,459 B1

Record of Oral Hearing
Held: October 5, 2017

Before THOMAS L. GIANNETTI, PATRICK M. BOUCHER and
KAMRAN JIVANI, *Administrative Patent Judges*.

IPR2016-01404
Patent 6,968,459 B1

APPEARANCES:

ON BEHALF OF PETITIONER:

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The above-entitled matter came on for hearing on Thursday, October 5, 2017, commencing at 10:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 PROCEEDINGS

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3 JUDGE GIANNETTI: Good morning everyone. We are here for a
4 final hearing in case IPR 2016-01404, Unified Patents versus Intellectual
5 Ventures II. I'm Judge Giannetti, I will be presiding over the hearing today.
6 On the screen to my left are the two other members of the panel appearing
7 remotely, Judge Jivani --

8 JUDGE JIVANI: Good morning.

9 JUDGE GIANNETTI: -- and Judge Boucher. I will note that because
10 we have two remote judges today it's important that you make sure that
11 you're speaking into the microphones so that they can hear you, and also
12 when you refer to your demonstratives please use the page numbers. They
13 have copies of the demonstratives and they'll be able to follow along. All
14 right, so let me get your appearances. Who's appearing today for Petitioner?

15 MR. LAVENUE: Petitioner, Lionel Lavenue,
16 Your Honor.

17 JUDGE GIANNETTI: So, will you be making presentation for the
18 Petitioner, sir?

19 MR. LAVENUE: Yes, Your Honor.

20 JUDGE GIANNETTI: Thank you, and who's here for the Patent
21 Owner?

22 MR. BLOCK: Daniel Block, Your Honor.

23 JUDGE GIANNETTI: I'm sorry, Block, is it?

24 MR. BLOCK: Daniel Block, B-L-O-C-K, from Sterne, Kessler, with
25 me is also Lori Gordon.

1 JUDGE GIANNETTI: All right, that's fine. So, to go over a few
2 ground rules and then we can get started, we have allotted 60 minutes per
3 side for argument today, that is a time limit. You are not required to use all
4 60 minutes. The Petitioner can reserve time for rebuttal and you may do that
5 either at the beginning of your presentation or if you prefer you can use the
6 balance of your time. I will be keeping time and I'll try to give you a
7 warning when you get into your rebuttal time, a few minutes before.

8 I want to make a comment about demonstratives. Both sides have
9 submitted demonstratives, we've reviewed them. We will not authorize
10 them to be filed at this stage but you can use them as aids to your argument,
11 but I want to caution and remind you the record of the hearing will be the
12 transcript that the court reporter will prepare and will be uploaded to the case
13 file and not the demonstratives. They are not evidence in this proceeding.
14 So, before we began do you have any questions, either side? Petitioner, any
15 questions, Patent Owner, any questions?

16 MR. BLOCK: No questions from Patent Owner.

17 JUDGE GIANNETTI: All right, I think we're ready to begin. Let me
18 just get organized here for a second. Petitioner, you may proceed.

19 MR. LAVENUE: All set, Your Honor?

20 JUDGE GIANNETTI: You can proceed when you're ready, sir.

21 MR. LAVENUE: Thank you. I have a printout for you, Your Honor,
22 do you need a printout?

23 JUDGE GIANNETTI: Well, I have them but I'm always happy to
24 take a binder if you handthem up.

25 MR. LAVENUE: Thank you, and I also have one for the court
26 reporter I'll hand to her after the hearing. So, Your Honor, I'd like to reserve

1 10 minutes for rebuttal and mainly for the warning because I think that I will
2 conclude well within my 50 minutes, so just in case.

3 JUDGE GIANNETTI: You can proceed, sir.

4 MR. LAVENUE: Thank you. Your Honor, if we go to page 2 of our
5 presentation, 2 of 39, we can see the summary of the instituted grounds and
6 the references you see on the left side, Bensimon and -- Bensimon and
7 Takahashi, and then the challenged claims are on the right. Basically this
8 dispute boils down to issues about claim consideration and about the
9 disclosure of Bensimon.

10 Takahashi is not really at issue either in the briefing or in the
11 argument as far as we can tell. If it does come up then we'll deal with that in
12 the rebuttal. The summary of the issues is on the next page and basically we
13 have four issues that we believe need to be resolved during this hearing.
14 Each one of these issues, we believe, is an issue that the outcome is strongly
15 in favor of the Petitioner and you'll see that as we explained we believe that
16 there are strained arguments that are presented by the Patent Owner in order
17 to try to create issues for purpose of the hearing.

18 The first issue is the construction of device-specific security
19 information, that is a claim term that is disputed between the parties. The
20 issue is whether or not that claim term has to have the word unique in it and
21 we submit that the answer is, no. That the claim, device-specific security
22 information, does not have to have the word included in it and we will
23 explain why. The second --

24 JUDGE JIVANI: Counsel, related to that issue before you continue
25 on, we did not see a head-on discussion of which claim construction

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