

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioners,

v.

IMMERSION CORPORATION,
Patent Owner.

Case IPR2016-01907
Patent 7,808,488 B2

Record of Oral Hearing
Held: January 10, 2018

Before BRYAN F. MOORE, PATRICK R. SCANLON, and MINN
CHUNG, *Administrative Patent Judges*.

Case IPR2016-01907
Patent 7,808,488 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Wednesday, January 10, 2018, at 2:02 p.m., at the U.S. Patent and Trademark Office, Madison Building East, 600 Dulany Street, Alexandria, Virginia, before Chris Hofer, Notary Public.

PROCEEDINGS

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2 JUDGE SCANLON: Thank you. Well, let's get started. This is the
3 hearing for IPR2016-01907. I'm Judge Scanlon and with me on the panel
4 are Judge Moore and Judge Chung. For the record, let's take the
5 appearances. If you can introduce yourself, Petitioner.

6 MR. ERICKSON: Thank you, Your Honor. Brian Erickson with
7 DLA Piper representing Petitioner, Apple. With me is Jim Heintz also with
8 DLA Piper, and in-house counsel at Apple, Kim Moore.

9 MR. BIRNHOLZ: Good afternoon, Your Honors. Richard Birnholz
10 of Irell & Manella for Patent Owner, Immersion, and with me is lead counsel
11 Mike Fleming and also Babak Redjaian, also of Irell & Manella.

12 JUDGE SCANLON: All right, great. Thank you. So in this case in
13 the Trial Hearing Order we set each party 45 minutes to present the
14 arguments. Again, Petitioner will present first and may reserve time for
15 rebuttal and then Patent Owner will present its case. Regarding Patent
16 Owner's notice of objections to the demonstratives -- the notice that was
17 filed a couple of days ago -- demonstratives are intended merely to assist the
18 parties in presenting their oral arguments and they're not meant to be
19 evidence, so the parties may use their demonstratives during the
20 presentation. The panel will take account of any objection previously raised
21 as to any particular demonstrative and in that regard the panel is able to
22 recognize new or unsupported argument in a slide and disregard any
23 impermissible content. So we'll proceed in that manner. So counsel for
24 Petitioner when you're ready, you may proceed.

1 MR. BIRNHOLZ: Your Honor, may I ask one procedural point.
2 Richard Birnholz for the Patent Owner. We also filed a Motion to Exclude
3 which was briefed and I believe the Trial Order also referenced that we
4 would have the opportunity to present arguments in connection with the
5 Motion to Exclude, and we would ask for the opportunity to reserve five
6 minutes or the balance of unused time in rebuttal with respect to the Motion
7 to Exclude. So after --

8 JUDGE SCANLON: Yes, granted. You can reserve the amount of
9 time you would like to.

10 MR. BIRNHOLZ: Okay. Thank you very much, Your Honor.

11 JUDGE SCANLON: Thank you. Proceed when you're ready.

12 MR. ERICKSON: Thank you, Your Honor. May it please the Board.
13 Moving to slide 2. The Board instituted IPR on two grounds. First ground,
14 the first set of claims related to claim 1 are obvious, as unpatentable over
15 JP725 also known as the Tsuji reference. The second ground that claim 29
16 is obvious, as unpatentable over the combination of Komata and
17 Niedzwiecki.

18 In slide 3, there are several topics to cover in this IPR. There is a lot
19 of overlap with the topics that were addressed in the preceding hearing
20 related to the parent patent, or the '488 patent. I will try to be as succinct as
21 possible and only address issues that are unique to the '488 trial patent
22 where possible. There is the claim construction issue about a single
23 interaction and then there's the questions about whether the claims are
24 obvious over Tsuji and the combination of Komata and Niedzwiecki.

25 Starting with the single interaction claim construction issue on slide 5,
26 the Board properly held in its preliminary construction that there's no single

1 interaction or contact requirement in any of the challenged claims. Like the
2 parent patent IPR, the Board ordered additional briefing prior to its
3 Institution decision in order to fully address the claim construction issues
4 and again, similar to the previous IPR there are no new issues raised that
5 would justify the Board revisiting its preliminary claim construction issue
6 position.

7 Moving forward to slide 10. Slide 10 illustrates challenged claim 1.
8 Taking a look at the claim language, the claim's outputting a display signal,
9 in other words one or more display signals, receiving a sensor signal that's
10 indicating a pressure contact determining an interaction based on the
11 pressure -- so one pressure, one interaction -- generating an actuator signal,
12 one actuator signal, outputting the actuator signal, again, one actuator signal.

13 Moving to slide 11. The primary dispute relates to the "Wherein"
14 clause about how that one actuator signal is configured. As claimed, there
15 are clearly two "if" conditional clauses in this claim, specifically if the
16 pressure is less than a first pressure threshold, the one actuator signal would
17 be configured one way. If the pressure is between a first pressure threshold
18 and a second pressure threshold the actuator signal will be configured a
19 second way. This is a simple conditional "if" statement. There's nothing
20 that requires two pressures that can be inconsistent with the claim to have
21 two different pressures applied to have two different actuator signals that's
22 certainly required to practice the claim.

23 Now the Patent Owner relies heavily on the fact that these two
24 conditional clauses are joined by the word "and" but they're inconsistent
25 because dependent claim 8 also has the word "and" joining conditional "if"
26 clauses. Dependent claim 8 further specifies that the graphical object in

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