

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KINGSTON TECHNOLOGY COMPANY, INC.,
Petitioner,

v.

POLARIS INNOVATIONS LTD.,
Patent Owner.

Case IPR2017-00114 (Patent 7,206,978 B2)
Case IPR2017-00116 (Patent 7,334,150 B2)

Record of Oral Hearing
Held: December 6, 2017

Before SALLY C. MEDLEY, BARBARA A. PARVIS, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

Case IPR2017-00114 (Patent 7,206,978 B2)

Case IPR2017-00116 (Patent 7,334,150 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Wednesday, December 6, 2017, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

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JUDGE PARVIS: Good afternoon, everyone. This is an oral argument in IPR2017-00114 and IPR2017-00116. The challenged patents are U.S. patent numbers 7,206,978 B2 and 7,334,150 B2. Patent owner is Polaris Innovations Limited. Petitioner is Kingston Technology Company, Incorporated. I'm Administrative Patent Judge Parvis. Judge Medley is next to me and Judge Clements is appearing remotely.

At this time we would like counsel to introduce yourselves, your partners and guests, starting with petitioner. Please use the microphone.

MR. HOFFMAN: Your Honor, David Hoffman on behalf of the petitioner, Kingston. With me is my colleague, Mr. Jeff Shneidman as well as my colleague, Martha Hopkins.

MR. LOWENSTEIN: Nathan Lowenstein of Lowenstein Weatherwax with lead counsel, Ken Weatherwax, and our colleague, Farrokh Aminifar.

JUDGE PARVIS: Thank you. Before we begin, we want to remind the parties that this hearing is open to the public and a full transcript of it will become part of the record. As you know from our oral hearing order of November 13, 2017, each side is allotted a total of an hour and a half per side to present its case for the two proceedings. Because the petitioner has the burden to show unpatentability of the claims, petitioner will proceed first followed by the patent owner. Petitioner will begin by presenting its case regarding the challenged

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1 claims and the grounds for which the Board instituted review in the
2 proceedings. Patent owner will present its rebuttal to petitioner's case.
3 Petitioner may reserve some time for rebuttal to patent owner's
4 presentation.

5 Also, please keep in mind whatever is projected on the screen
6 will not be viewable by anyone reading the transcript or the judge
7 appearing remotely. When you refer to a demonstrative slide or other
8 document on the screen, please state in the microphone information to
9 identify the document you are referring to such as petitioner's
10 demonstratives and the slide number or the exhibit number and the page
11 number. The judge appearing remotely has copies of the parties'
12 demonstratives.

13 So any time you are ready, counsel for petitioner, you may
14 proceed.

15 MR. HOFFMAN: One question, Your Honor, the parties had
16 envisioned doing the 114 first with the petitioner opening and then a
17 response and then back to petitioner and then separately doing the 116
18 IPR. Is that acceptable?

19 JUDGE PARVIS: The parties both agreed to that?

20 MR. HOFFMAN: I believe so.

21 MR. LOWENSTEIN: Yes.

22 JUDGE PARVIS: That's fine.

23 MR. HOFFMAN: Your Honor, my colleague, Mr. Shneidman,
24 will be presenting.

25 JUDGE PARVIS: You may proceed.

1 MR. SHNEIDMAN: Thank you, Your Honors. My name is
2 Jeffrey Shneidman. I represent the petitioner, Kingston. I would like to
3 take about 20 minutes and reserve my remainder of time for rebuttal.

4 I would like to talk to you today, turning to slide 2, about four
5 things. The first is to introduce the claim technology and the '978 patent
6 in particular and why it was allowed by the Patent Office. I then want to
7 discuss the Raynham-based and Humphrey-based combinations that
8 render the instituted claims obvious. Because Raynham was instituted on
9 all of the claims, I'll be focusing there. And Humphrey is a secondary
10 argument, so it does not address claim 14. And then I will close with a
11 brief note about patent owner's expert's understanding of what a person of
12 ordinary skill in the art is and why petitioner believes the Board should
13 not rely on the patent owner's expert in this case for its evidence.

14 Turning to slide 4, the '978 patent is about putting well-known
15 circuitry on a memory chip. This is undisputed. On the left we have two
16 XOR gates on a chip that is doing error detection on behalf of five
17 DRAMs, and on the right of the slide we have that same XOR gate error
18 detection circuitry distributed to the DRAMs. So it's taking this circuit
19 and moving it from one chip to another.

20 Moving to slide 5, during the prosecution, the applicant had a
21 great deal of difficulty getting this out of the office as an issued patent,
22 and it was only after the applicant amended to clarify that each circuit
23 unit consists of a single integrated circuit memory chip that the patent
24 was allowed. And so in our view, the patent is allowed explicitly
25 because the claim they were moving to memory on-chip error detection.

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