

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SK HYNIX INC., SK HYNIX AMERICAN INC., and
SK HYNIX MEMORY SOLUTIONS INC.

Petitioner,

v.

NETLIST, INC.,
Patent Owner.

Case IPR2017-00561 (Patent 8,001,434 B1)

Case IPR2017-00562 (Patent 8,359,501 B1)

Record of Oral Hearing
Held: April 6, 2018

Before BRYAN F. MOORE, MATTHEW R. CLEMENTS, and
SHEILA F. MCSHANE, *Administrative Patent Judges*.

Case IPR2017-00561 (Patent 8,001,434 B1)

Case IPR2017-00562 (Patent 8,359,501 B1)

APPEARANCES:

ON BEHALF OF PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Friday, April 6, 2018, commencing at 1:06 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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

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3 MS. BOBO: All rise.

4 JUDGE MOORE: Be seated. Okay. Good afternoon.

5 Judges McShane and Clements, can you hear me?

6 JUDGE CLEMENTS: Yes, loud and clear.

7 JUDGE MCSHANE: Yes.

8 JUDGE MOORE: Great. Okay. We are here for the oral hearing for
9 cases IPR2017-00561, 562 and 577. As a, before we do appearances, as an
10 initial matter let me find out from the parties how they would like to proceed
11 as far as these three cases. Cases 561 and 562 appear to be related, case 577
12 not as much. So maybe we will start with petitioner and give me an idea of
13 how you wanted to proceed this afternoon.

14 MR. MICALLEF: Thank you, Your Honor. Joe Micallef from Sidley
15 and Austin. I think you're right, that the 561 and 562 are patents that are
16 related in the patent law since one is a continuation from the other so and it
17 seems like the issues there is a lot of overlap so we would propose we do
18 those patents first. We will do our case in chief in both. The patent owner
19 can do their response on both and then we do our reply on both and then
20 perhaps if you are willing to give us a five minute break we do the 85 after,
21 185 after or if not we will just go right into it from there.

22 JUDGE MOORE: All right.

23 MR. MICALLEF: That's what I would suggest.

24 JUDGE MOORE: And patent owner?

25 MR. WIMBISCUS: Good afternoon, Your Honor. We agree that the
26 561, 562 cases should go first together. The only wrinkle I would add is that

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1 we would like some rebuttal. We have a motion to strike so I would
2 partition the time but I think that is a separate issue.

3 JUDGE MOORE: Right, yes. Okay.

4 MR. ARJOMAND: Your Honor, I'm Mehran Arjomand of Morreson
5 and Forester. I represent the patent owner in the 577 case.

6 JUDGE MOORE: Okay.

7 MR. ARJOMAND: And we are okay with the arrangements set forth
8 by the parties.

9 JUDGE MOORE: Okay. And just so it is clear, certainly if there is
10 different counsel in 577 it's up to you whether you want to sit through the
11 initial case or you want to be brought in when the 577 begins. That's your
12 call.

13 MR. ARJOMAND: If it would be okay with Your Honors, we would
14 like to be brought in.

15 JUDGE MOORE: Yes, that's fine. And we will most likely take a
16 break between the first cases and the second case so that should work out.

17 MR. ARJOMAND: Thank you, Your Honor.

18 JUDGE MOORE: Sure.

19 [Whereupon Mr. Arjomand and Mr. Kim leave the hearing room.]

20 JUDGE MOORE: Okay. All right. So we are starting now with the
21 oral hearing for the IPR2017-00561 and 562 cases and can I get a roll call of
22 who we have here starting with petitioner?

23 MR. MICALLEF: Yes, Your Honor. As I said, Joe Micallef, Sidley
24 Austin. With me is my partner Steve Baik who is going to provide the
25 argument in these proceedings. Also my colleagues Wonjoo Suh and Ferenc
26 Pazmandi are in the back. Thank you.

1 JUDGE MOORE: All right.

2 MR. WIMBISCUS: Good afternoon, Your Honor, Tom Wimbiscus
3 for the patent owner. With me today is Wayne Bradley.

4 JUDGE MOORE: All right, thank you. Okay. Petitioner before you
5 begin, take the time you need to set up but before you begin, how much time
6 would you like to reserve for rebuttal?

7 MR. BAIK: I think go about 30 minutes, might be a little bit under
8 for the initial presentation and then I would like to reserve the rest of the
9 time for rebuttal.

10 JUDGE MOORE: Okay. I didn't say it before but as we usually say
11 in these hearings, petitioner is going to go first. They have got the burden.
12 As we have heard they reserved time. Patent owner has indicated that it may
13 want to reserve time to deal with motions, that certainly will be fine.

14 With me at the hearing are Judges McShane and Clements and so it's
15 important as you refer to evidence or as you refer to demonstratives that you
16 indicate what you are referring to especially in this case where its
17 complicated technology, its important if you are using a pointer or you are
18 referring to specific aspects of a figure that you indicate that orally so that
19 the Judges can follow. They can't see what we can see here in the
20 courtroom. And so any time you are ready.

21 MR. BAIK: All right, thank you. And thank you, Your Honor. And
22 to the extent there is any argument regarding the motion to strike, we also
23 reserve some time for that to the extent we have any time for that. But let
24 me go ahead and get started. My name is Steve Baik, Sidley Austin for
25 petitioners. And I will be presenting on IPR's 2017-00561 and 562 and this
26 is regarding the 434 and the 501 patents respectively as seen here on slide

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