

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SK HYNIX, INC.,  
Petitioner,

v.

NETLIST, INC,  
Patent Owner.

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Case IPR2017-00692  
Patent 8,874,831

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Record of Oral Hearing  
Held: April 24, 2018

Before STEPHEN C. SIU, MATTHEW R. CLEMENTS, and SHEILA F.  
McSHANE, *Administrative Patent Judges*.

Case IPR2017-00692  
Patent 8,874,831

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Tuesday, April 24, 2018, at 2:50 p.m., at the U.S. Patent and Trademark Office, Madison Building East, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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JUDGE MCSHANE: Please be seated. Thank you. Give me one moment. Judge Clements, can you hear okay?

JUDGE CLEMENTS: Yes, I can. Thank you.

JUDGE MCSHANE: Judge Siu? Communications --

JUDGE SIU: Yes.

JUDGE MCSHANE: -- are acceptable? Okay, very good. Thank you. We are going to start a new transcript and this is the second session this afternoon on SK -- the Netlist cases. The case we're hearing now is for IPR2017-00692. I got that number correct gentlemen? Thank you. May we have appearances, please?

MR. MICALLEF: Joe Micallef, Your Honor, for Petitioner.

MR. WIMBISCUS: Good afternoon. Tom Wimbiscus, and with me is Wayne Bradley, for the Patent Owner.

JUDGE MCSHANE: Welcome back, counsel. Thank you. This afternoon we're going to have Petitioner go first, reserve time for rebuttal. Patent Owner can then present their case and then any rebuttal we will hear from Petitioner. Each party will have 30 minutes to present its argument and you folks know the ground rules pretty well, so please try to use the microphone and call out the demonstrative numbers. Anything from any judges, any other comments?

JUDGE CLEMENTS: Nothing from me.

JUDGE MCSHANE: Okay.

JUDGE SIU: Nothing from me.

1 JUDGE MCSHANE: Thank you. Okay, Petitioner, as soon as you're  
2 ready please proceed. Thank you..

3 MR. MICALLEF: Thank you, Your Honor. Joe Micallef for the  
4 Petitioners. In the last proceeding you raised the issue of the recently issued  
5 SAS case out of the Supreme Court, and I guess I should understand as you  
6 mentioned in the last proceeding but will be on a different transcript, that  
7 any arguments we may want to raise as to that case or I guess this case we  
8 should hold back and if we have such an argument sometime in the future  
9 contact the Board about it?

10 JUDGE MCSHANE: Yes. If you see a need let us know that you  
11 want to call, okay --

12 MR. MICALLEF: Okay.

13 JUDGE MCSHANE: -- and we'll perhaps discuss what issues may be  
14 raised.

15 MR. MICALLEF: Great. Thank you very much.

16 JUDGE MCSHANE: Okay. Thank you.

17 MR. MICALLEF: So, yes, this is the 692 proceeding on the 831  
18 patent, Your Honor. I have a number of slides, I'm going to jump around.  
19 Obviously I'm happy to go to any one of them or to address other issues  
20 Your Honors might have.

21 I'm on slide 2 and these are the grounds that were instituted in this  
22 proceeding, anticipate claims 1 to 14, anticipation by Best claims 1 to 14  
23 obvious over Best with or without Roy and then a separate ground for claim  
24 15, obviousness over Best in view of Mills and Bonella with or without Roy.

1           On slide 3 here, I think that this proceeding devolves to really two  
2 issues and that is for claims 1 to 14 whether the cited art satisfies the --  
3 actually whether the Best patent satisfies the claimed memory module. That  
4 really is just a pure claim construction issue as far as I can tell, and then  
5 there is an argument about claim 15. So really we're looking at two separate  
6 arguments in this proceeding that I think the Board has to resolve.

7           So what I'd like to do is go through, just to focus us here, go through a  
8 very brief overview of the 831 patent and a very brief overview of the  
9 principal prior art, and then get into those two issues. I'm on slide 4. I have  
10 just the front page of figure 5A of the 831 patent. You can see it was issued  
11 from an application filed in 2012. It claims priority to a number of prior  
12 applications. We have asserted and argued, and shown that it does not get as  
13 early as provisional date. The other side has not contested that argument so  
14 its date is I think somewhere in the 2008 time frame.

15           If I can go to slide 5, well actually let me jump ahead to slide 6 just  
16 because it has more interesting color coding. Claim 1, which is directed to a  
17 memory module, and has essentially four structural components that we've  
18 called out there non-volatile memory, data manager of volatile memory and  
19 a controller. Over here on the right of this slide is figure 5A which is an  
20 example of the disclosed memory module and you can see the Flashes the  
21 non-volatile memory, the DRAM is the volatile memory, and there's this  
22 data manager that sits in between that moves data back and forth and there is  
23 essentially a module controller.

24           The fact that those -- I'll show you in a second -- the fact that those  
25 components exist in the prior art, that system is not really at issue here at all.

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