

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FEDEX CORPORATION,
Petitioner,

v.

INTELLECTUAL VENTURES II, LLC,
Patent Owner.

Case IPR2017-00787
Patent 7,199,715 B2

Record of Oral Hearing
Held: April 26, 2018

Before DAVID C. MCKONE, BARBARA A. PARVIS, and JOHN A.
HUDALLA, *Administrative Patent Judges.*

Case IPR2017-00787
Patent 7,199,715 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

MICHAEL YOUNG, ESQUIRE
ALEXANDER M. BOYER, ESQUIRE
DANIEL C. TUCKER, ESQUIRE
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
Two Freedom Square
11955 Freedom Drive
Reston, VA 21090

ON BEHALF OF THE PATENT OWNER:

LAUREN M. NOWIERSKI, ESQUIRE
KEVIN MCNISH, ESQUIRE
ALAN S. KELLMAN, ESQUIRE
Desmarais, LLP
230 Park Avenue
New York, NY 10169

The above-entitled matter came on for hearing on Thursday, April 26, 2018, at 1:02 p.m., at the U.S. Patent and Trademark Office, Madison Building East, 600 Delany Street, Alexandria, Virginia, before Walter Murphy, Notary Public.

PROCEEDINGS

1 THE USHER: All rise.

2 JUDGE PARVIS: Please be seated. This is the oral argument in
3 IPR2017-00787. The challenged patent is U.S. patent No. 7,199,715 B2.
4 Petitioner is FedEx Corporation, Patent Owner is Intellectual Ventures II,
5 LLC. I'm Administrative Patent Judge Parvis, Judge McKone is
6 appearing remotely from the Detroit office and Judge Hudalla is here
7 with me.

8 At this time we'd like counsel to introduce yourselves, your
9 partners and your guests starting with Petitioner. Please use the
10 microphone.

11 MR. YOUNG: Good afternoon. May it please the Board, my
12 name is Michael Young on behalf of the Petitioner FedEx Corporation.
13 With me at counsel's table is Bradford Schulz, and again in attendance
14 this afternoon is lead counsel, Jeffrey Berkowitz, and chief IP counsel for
15 FedEx Corporation Christopher Cherry.

16 JUDGE PARVIS: Patent Owner.

17 MS. NOWIERSKI: Good afternoon, Your Honor. Lauren
18 Nowierski on behalf of the Plaintiff, Intellectual Ventures II, LLC. With
19 me at counsel's table is Kevin McNish. Also appearing today in the
20 courtroom is Mr. Alan Kellman, lead counsel as well as James Hietala
21 from Intellectual Ventures and Tim Seeley, also from Intellectual
22 Ventures.

23 JUDGE PARVIS: Thank you. We want to start by mentioning
24 again the Supreme Court's recent decision in SAS Institute, Inc., v. Iancu.
25 In the instant proceeding we instituted on some claims but not others. As

1 we indicated in the first hearing, we will need to address the remaining
2 claims in the final decision. As we also indicated earlier, the parties
3 should meet and confer and send an email with a proposed time for a call
4 with the panel next week. Also before we begin, as we noted this
5 morning, guidance for this hearing was provided in our Oral Hearing
6 Order of April 2nd, 2018. As you know from that order, each side will
7 have 30 minutes total time for oral argument. After this hearing we will
8 conduct a hearing in IPR2017-00859, which will begin shortly after 2
9 Eastern.

10 We have a few other reminders. This hearing is open to the public
11 and a full transcript of it will become part of the record. Also please
12 remember to speak into the microphone at the podium so that all judges
13 including the remote judge can hear you and please speak into the
14 microphone information to identify any document projected on the
15 screen. That document will not be viewable by anyone reading the
16 transcript or the judge appearing remotely. So anytime counsel for
17 Petitioner, you may proceed.

18 MR. YOUNG: Thank you, Your Honor. I'm going to start on
19 slide 3. The 715 patent issued on March 1st, 2005, and is entitled
20 "System and Method for Tracking ID Tags using a Data Structure of Tag
21 Reads." Now jumping to slide 40.

22 Claim 1 is extremely broad under the broadest reasonable
23 interpretation and includes four elements including attempting to read
24 tags at successive points, populating a database with that read
25 information, modifying part of the information in the database based on

1 other information and using that modified information to continue to
2 track the tags through the business process.

3 Advancing to slide 41. Claim 2 merely adds generic and well
4 known data structure to the populating, modifying and using the elements
5 of claim 1. Advancing to slides 42 and 43. Claims 11 and 12 are just a
6 redraft of the method claims as system claims and associated components
7 that conduct those steps.

8 Now the Board found that claims 1, 2, 11, and 12 were obvious in
9 the Institution Decision in view of Jones, U.S. patent No. 6,952,645.
10 Jones is directed to a vehicle travel monitoring system and it discloses a
11 tag in the form of a vehicle control unit or a VCU as attached to a vehicle
12 and that identifies the vehicle as it travels along a delivery route. Jones
13 also discloses readers that read those tags of the base station control unit
14 or BSCU and the other claims travel data from VCUs at scheduled stops
15 along the delivery route.

16 I'm going to move to slide 13. Jones also discloses populating a
17 database with that travel information in the form of a travel data storage
18 unit. Advancing to slide 14. Jones also discloses modifying information
19 in that database by updating the arrival time of a delivery based on the
20 travel data that is collected thus far. So if a delivery was running behind
21 it would update the ultimate arrival time in the database.

22 Advancing to slide 15. Jones discloses using that modified
23 information by sending an alert to a user based on that modified
24 information, that new updated arrival time. I'm going to go back to slide
25 9 now. At Institution, the Board rejected the Patent Owner's argument
26 that a tag must contain ID information and as consistent with the

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