

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION AND HTC AMERICA, INC.
Petitioner

v.

KONINKLIJKE PHILIPS ELECTRONICS N.V.
Patent Owner.

Case IPR2017-00857
Reissued Patent RE44006 E

Record of Oral Hearing
Held: June 1, 2018

Before KRISTEN L. DROESCH, BARBARA A. PARVIS and
MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

Case IPR2017-00857
Reissued Patent RE44006

APPEARANCES:

ON BEHALF OF THE 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, June 1, 2018, commencing at 8:59 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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JUDGE DROESCH: Good morning. We are on the record. We are here for inter partes review number IPR2017-00857 between petitioner HTC and patent owner Philips Electronics. The panel before you is Judge Droesch, Judge Parvis and Judge Wormmeester. Per our order, each party is allotted 30 total minutes. Because petitioner has the burden of persuasion, petitioner will present its arguments first. Petitioner may reserve some of his time for rebuttal. And following petitioner's arguments patent owner will present its arguments. Petitioner when you are ready to begin, please state your name for the record and introduce all of those in attendance for your party.

MR. PATARIU: Thank you, Your Honor. My name is Kevin Patariu. I am here with the law firm Perkins Coie, LLP on behalf of petitioners, HTC Corporation and HTC America, Inc. With me is my co-counsel, Ryan Hawkins. Mr. Hawkins will be presenting the argument on behalf of petitioner.

JUDGE DROESCH: Thank you.

MR. HAWKINS: Your Honors, I have paper copies of the demonstratives if that would be of aid?

JUDGE DROESCH: Oh, we already have copies that were sent by email. Thank you.

MR. HAWKINS: All right. With that then I will begin. Good morning, Your Honors. Once again my name is Ryan Hawkins on behalf of petitioners.

Turning to Slide 2, today we are here to talk about United States

1 reissued patent 44006. More specifically as shown on Slide 4, we are going
2 to be discussing just Claim 1 of the 006 patent as only Claim 1 of the 006, is
3 asserted in this petition.

4 Turning to Slide 5, there is a little bit of framing. At this point in the
5 proceedings, petitioner has put forth evidence showing that the prior art at
6 issue discloses all of the limitations of Claim 1 of the 006 patent. More
7 specifically that the disclosure of the limitations under a plain and ordinary
8 meaning of those deterrents.

9 In response, as shown on claim or on Slide 6, patent owner states that
10 one limitation specifically the menu comprising a plurality of menu options
11 limitation requires a narrowing construction. They do not contest any of the
12 limitations of Claim 1 and they only contest that the prior art does not
13 disclose the menu comprising a plurality of menu options limitations under
14 their construction. With that framing out of the way I would like to go
15 ahead and just move to the claim construction issues here.

16 As shown on Slide 8, patent owner contends that the term menu
17 comprising a plurality of menu options should be construed as a list of
18 displayed options corresponding to available machine functions from which
19 lists the user can select machine function. Now, at the outset it is important
20 to note that patent owner's construction is derived entirely from extrinsic
21 evidence. Specifically in this case, patent owner's construction is derived
22 from four dictionary definitions.

23 As a result of this, patent owner's proposed construction includes
24 several limitations that directly contradict the 006 patent. There is three of
25 those limitations that I would like to talk about today.

26 JUDGE DROESCH: Can I interrupt you before you get into patent

1 owner's proposed construction? What is petitioner's proposed construction
2 for the plain and ordinary meaning for these menu options or menu
3 comprising options?

4 MR. HAWKINS: So patent, I'm sorry, petitioner is not proposing a
5 construction. Petitioner is saying that it should be given its plain and
6 ordinary meaning to a person of ordinary skill in the art at the time of the
7 invention and so their patent owner or I'm sorry petitioner is not proposing a
8 construction.

9 JUDGE DROESCH: Okay.

10 JUDGE PARVIS: Is there a problem with patent owner's proposed
11 construction?

12 MR. HAWKINS: Yes, there is, Your Honor, and I'm, I intend to walk
13 through those issues.

14 JUDGE PARVIS: Well, can we accept some of it?

15 MR. HAWKINS: I don't believe so. Is there a certain portion of it
16 that you're considering?

17 JUDGE PARVIS: Well, is the dispute about just the selection or is
18 there -- is it just that -- is it okay -- is the part, a list of display options
19 corresponding to the available machine functions. Is that okay and it's just
20 this issue with the selection? Or is there?

21 MR. HAWKINS: So there are actually three issues that we believe
22 are improper with patent owner's proposed construction. The limitation of
23 selection that you just mentioned. The limitation limiting the construction to
24 list type menus and then finally the limitation regarding machine functions.
25 So we believe all three of those limitations are improper.

26 JUDGE PARVIS: But --

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