

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

STINGRAY DIGITAL GROUP INC.,
Petitioner,

v.

MUSIC CHOICE,
Patent Owner.

Case IPR2017-00888
Patent 7,320,025 B1

Before MITCHELL G. WEATHERLY, GREGG I. ANDERSON, and
JOHN F. HORVATH, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a), 37 C.F.R. § 42.73

I. INTRODUCTION

A. BACKGROUND

Stingray Digital Group Inc. (“Petitioner”) filed a petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 1, 3, 4, and 8 (the “challenged claims”) of U.S. Patent No. 7,320,025 B1 (Ex. 1001, “the ’025 patent”). 35 U.S.C. § 311. Music Choice (“Patent Owner”) timely filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). On September 21,

2017, based on the record before us at the time, we instituted an *inter partes* review of claims 1, 3, 4, and 8. Paper 7 (“Institution Decision” or “Dec.”).

We instituted the review on the following challenges to the claims:

References	Basis	Claims challenged
International Patent Publication WO 00/19662 (Ex. 1004, “Mackintosh”) and Hallier, J., Multimedia Broadcasting to mobile, portable and fixed Receivers using the Eureka 147 Digital Audio Broadcasting System; Proceedings of the 5th IEEE International Symposium on Personal, Indoor and Mobile Radio Communications, The Hague, The Netherlands, Sept. 18–22, 1994 (Ex. 1006, “Hallier”)	§ 103	1, 3, and 4
U.S. Patent Application Publication No. 2002/0078456 A1 (Ex. 1005, “Hudson”)	§ 102(b)	8

After we instituted this review, Patent Owner filed a Patent Owner Response in opposition to the Petition (Paper 19, “PO Resp.”) that was supported by a Declaration from Samuel Russ, Ph.D. (Ex. 2001). Petitioner filed a Reply in support of the Petition (Paper 27, “Reply”) that was supported by a Reply Declaration of Michael Shamos, Ph.D. (Ex. 1010). Patent Owner did not move to amend any claim of the ’025 patent.

We heard oral argument on June 19, 2018. A transcript of the argument has been entered in the record (Paper 36, “Tr.”).

We have jurisdiction under 35 U.S.C. § 6(c). The evidentiary standard is a preponderance of the evidence. *See* 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons expressed below, we conclude that Petitioner has demonstrated by a preponderance of evidence that claims 1, 3, and 4 are unpatentable, but it has failed to do so for claim 8.

B. RELATED PROCEEDINGS

The parties identified as a related proceeding the co-pending district court litigation of *Music Choice v. Stingray Digital Group, Inc.*, No. 2:16-cv-00586-JRG-RSP (E.D. Tex. June 6, 2016). Pet. 1; Paper 5, 2. Patent Owner identifies a number of other applications, patents, or proceedings as being related to this proceeding, including:

- a. *Stingray Digital Group Inc. v. Music Choice*, IPR2017-01191 (PTAB), involving related U.S. Patent No. 9,351,045;
- b. *Music Choice v. Stingray Digital Group Inc. and Stingray Music USA, Inc.*, Case No. 2:16-cv-00586-JRG-RSP (E.D. Tex.);
- c. U.S. Patent Application Serial Number 10/098,620, issued as U.S. Patent No. 7,783,722 on August 24, 2010;
- d. U.S. Patent Application Serial Number 60/390,312, filed on June 21, 2002 (Expired);
- e. U.S. Patent Application Serial Number 60/395,360, filed on July 12, 2002 (Expired);
- f. U.S. Patent Application Serial Number 10/339,425, issued as U.S. Patent No. 7,325,043 on January 29, 2008;
- g. U.S. Patent Application Serial Number 60/612,618, filed on September 24, 2004 (Expired);
- h. U.S. Patent Application Serial Number 11/963,164, issued as U.S. Patent No. 8,166,133 on April 24, 2012;

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- i. U.S. Patent Application Serial Number 13/453,826, filed on April 23, 2012 (Abandoned);
- j. U.S. Patent Application Serial Number 14/153,872, filed on January 13, 2014 (Abandoned);
- k. U.S. Patent Application Serial Number 14/635,483, issued as U.S. Patent No. 9,351,045 on May 24, 2016;
- l. U.S. Patent Application Serial Number 15/162,259, filed on May 23, 2016 (Abandoned); and
- m. U.S. Patent Application Serial Number 15/485,417, filed on April 12, 2017 (Pending).

Paper 5, 2–3.

C. THE '025 PATENT

The '025 patent relates to “broadcast, on-demand and/or personalized entertainment and information systems.” Ex. 1001, 1:24–25. Figure 1, reproduced at right, is a block diagram illustrating an embodiment of system 100. System 100 may include distribution center 104 with “one or more broadcast

signal receiving systems 120 for receiving signals transmitted from broadcast media source 102,” as well as a “transmission system 122 for combining an output of signal receiving systems 120 and on-demand channels outputted by on-demand system 192 to generate a combined signal 125” for transmission to a plurality of client systems 110. *Id.* at 4:37–46.

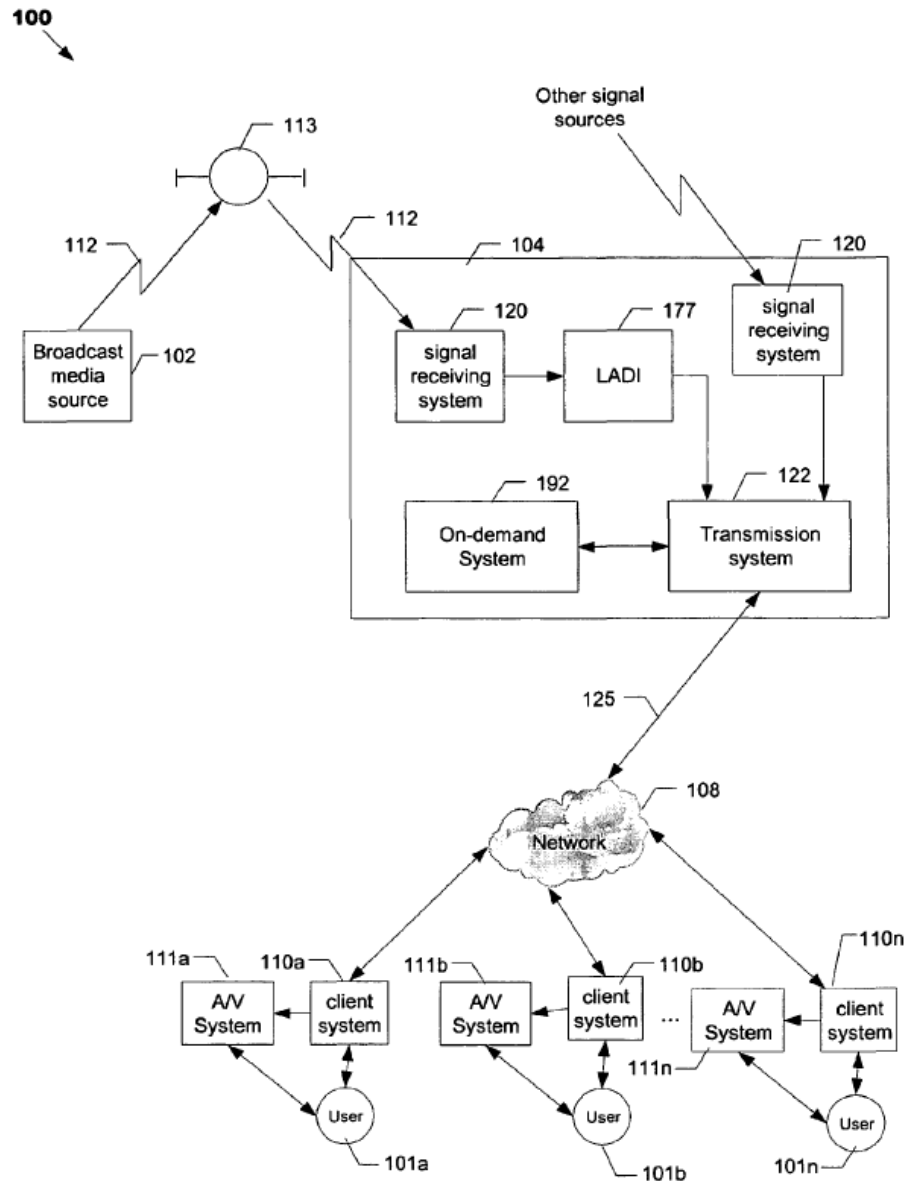


FIG. 1

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