

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SUMITOMO ELECTRIC INDUSTRIES, LTD.,  
Petitioner,

v.

UNITED TECHNOLOGIES CORPORATION,  
Patent Owner.

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Case IPR2017-00966  
Patent 9,166,243 B2

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Record of Oral Hearing  
Held: May 10, 2018

Before CHRISTOPHER L. CRUMBLY, JON B. TORNQUIST, and  
JEFFREY W. ABRAHAM, *Administrative Patent Judges*.

Case IPR2017-00966  
Patent 9,166,243 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

JOHN GOETZ  
JOHN PEGRAM  
Fish Richardson  
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ON BEHALF OF THE PATENT OWNER:

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and

Joe Donahoe, Digital Reporter

The above-entitled matter came on for hearing on May 10, 2018, commencing at 12:59 p.m., at the U.S. Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314.

P R O C E E D I N G S

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3 THE COURT: Please be seated. Okay. We are here  
4 for the oral hearing IPR 2017-00966 regarding U.S. patent  
5 number 916-6243. I'm Judge Abraham. To my right is Judge  
6 Tornquist and joining us remotely from our Dallas office is  
7 Judge Crumbley. Pursuant to the order that we issued on  
8 April 14th, each side will have 30 minutes of total argument  
9 time. Petitioner will start and can reserve time for  
10 rebuttal, no more than half of your time, and then we'll hear  
11 from patent owner, and then if you did reserve time, we can  
12 go there. So before we hear arguments, let's just take a  
13 roll call. Starting with petitioner.

14 MR. GOETZ: Thank you, Your Honor. On behalf of  
15 petitioner, John Goetz of Fish and Richardson. With me is  
16 Mr. John Pegram.

17 MR. PEGRAM: Good morning. Or good afternoon  
18 rather.

19 THE COURT: Good afternoon. Thank you. For  
20 patent owner?

21 MR. OLDS: Yeah. Patent. Theodore Olds from the  
22 Carlson, Gaskey, Olds Firm, along with my partner, Jessica  
23 Zilberberg. And we also have Mr. Franklin Morrison from  
24 United Technologies.

25 THE COURT: Great. Welcome.

26 MR. MORRISON: Good afternoon.

1 THE COURT: Great. As you can see, Judge Crumbley  
2 is joining us remotely. He has a copy of the demonstratives  
3 that were submitted but he cannot see the screen. So as you  
4 go through your presentations, please identify the -- the  
5 slide number that you're working from so he can follow along.  
6 It also helps for clarity and accuracy of the record.

7 Okay. So with that, I'll invite petitioner to the  
8 podium and ask if there's any -- would you like to reserve  
9 time for rebuttal?

10 MR. GOETZ: I would, Your Honor. As close to half  
11 as I can, but probably going to be about ten minutes I would  
12 expect.

13 THE COURT: Okay. So I will put -- let's see.  
14 Start with 20 minutes on the clock and if you finish early,  
15 we'll just add that to your rebuttal time.

16 MR. GOETZ: Thank you, sir. And that counts down  
17 that clock, I take it?

18 THE COURT: Yep, it should.

19 MR. GOETZ: Okay.

20 THE COURT: All right. Let's see. There you go.

21 MR. GOETZ: Thank you. May it please the Board,  
22 John Goetz on behalf of petitioner. We're here to talk about  
23 the petitioner's challenge to the '243 patent. There are two  
24 instituted grounds. On slide two, I have them up. The first  
25 instituted ground relies on three references and the second  
26 instituted ground adds the Perry publication, which was added

1 to disclose structure and feature of the claimed flow fields,  
2 although it's the same claims that are at issue with -- with  
3 respect to each ground.

4 At the outset, there are three independent claims.  
5 I just wanted to note that. I have them on slides three,  
6 four, and five. In the institution decision there was a  
7 reference to just two independent claims. There are three.  
8 Independent claim one is the first one, and I've boxed here  
9 on slide three really the critical language which talks about  
10 the interdigitated channels. That's really the thrust of  
11 this -- this whole proceeding. Slide four is independent  
12 claim 13, and again, I've boxed and read there the -- the  
13 channels are interdigitated. The second channels are  
14 interdigitated with the first channels, and then again slide  
15 five is independent claim 16. Again has that language. I've  
16 boxed there the second channels are interdigitated with the  
17 first channels. So where does this leave us after we've had  
18 the -- the petition and the preliminary response and the  
19 patent owner's response and the reply? The narrows -- the issue  
20 is quite narrow. What we have here are really undisputed  
21 facts about what -- where these elements in these challenged  
22 claims, independent and dependent, exist in the prior art.  
23 That's -- it's really undisputed that all of those elements  
24 exist in the prior art. And as I have on slide six, the flow  
25 battery elements are disclosed as, for example, in JP 659,  
26 except for the interdigitated flow field elements that I've

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