UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SUMITOMO ELECTRIC INDUSTRIES, LTD., Petitioner,

v.

UNITED TECHNOLOGIES CORPORATION, Patent Owner.

Case IPR2017-00966 Patent 9,166,243 B2

Record of Oral Hearing Held: May 10, 2018

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



APPEARANCES:

ON BEHALF OF THE PETITIONER:

JOHN GOETZ JOHN PEGRAM Fish Richardson 601 Lexington Avenue New York, New York 10022

ON BEHALF OF THE PATENT OWNER:

THEODORE OLDS JESSICA ZILBERBERG CARLSON, GASKEY & OLDS, P.C 400 West Maple Road, Ste 350 Brimingham, Michigan 48009 Telephone: (248) 988-8360

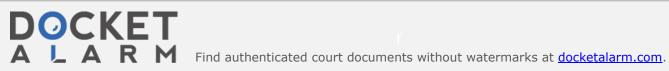
and

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.



1	PROCEEDINGS
2	
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
l 1	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
- 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
- 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
- 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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