

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MLB ADVANCED MEDIA, L.P.,
Petitioner,

v.

FRONT ROW TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2017-01127
Patent 8,583,027 B2

Record of Oral Hearing
Held: May 21, 2018

Before JUSTIN T. ARBES, MATTHEW R. CLEMENTS, and TERRENCE
W. McMILLIN, *Administrative Patent Judges*.

IPR2017-01127
Patent 8,583,027 B2

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 Monday, May 21, 2018, at 1 p.m, at the U.S. Patent and Trademark Office, Madison Building East, 600 Delany Street, Alexandria, Virginia, before Gary Euel, Notary Public.

1 PROCEEDINGS

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3 JUDGE ARBES: Good afternoon. This is the oral hearing in Case
4 IPR2017-01127 involving Patent 8,583,027. Can counsel please state your
5 names for the record?

6 MR. BECK: Thank you, Your Honor. It's George Beck for the
7 Petitioner and I'm here with my colleague Andrew Cheslock.

8 MR. HODGES: Thank you, Your Honor. Ben Hodges and Kevin
9 Ormiston here on behalf of Patent Owner.

10 JUDGE ARBES: Thank you. Per the Trial Hearing Order in this
11 case, each party will have 45 minutes of time to present arguments. The
12 order of presentation is first Patent Owner will proceed to present its case
13 with regard to whether its Motion to Amend meets the requirements set forth
14 in Section 42.121. You may reserve time for rebuttal. Petitioner then will
15 respond to Patent Owner's arguments regarding the requirements for a
16 Motion to Amend and may present its arguments regarding the patentability
17 of the proposed substitute claims. Petitioner may reserve rebuttal time to
18 respond to arguments presented by Patent Owner regarding the patentability
19 of those claims. The Patent Owner may then use any remaining time to
20 respond to Petitioner's presentation and finally Petitioner may use any
21 remaining time solely to respond to Patent Owner's arguments regarding
22 patentability.

23 A few reminders before we begin today. One, to ensure that the
24 transcript is clear and because we have two judges participating remotely,
25 please only speak at the podium and try to refer to your demonstratives by

1 slide number. Also, if either party believes that the other party is presenting
2 an improper argument, I would ask you to please raise that in your own
3 presentation rather than interrupting the other side. Finally, we received the
4 list of objections to Petitioner's demonstrative exhibits and will not preclude
5 either party from using the demonstrative exhibits that were submitted today.
6 We do remind the parties however that demonstrative exhibits are merely
7 visual aids to assist a party's presentation at the hearing. They're not briefs
8 and they're not evidence. The panel will also be able to determine whether
9 any arguments made at the hearing today are improper and, if so, those
10 arguments will not be considered. Any questions before we begin?

11 MR. BECK: No, Your Honor.

12 MR. HODGES: No, Your Honor.

13 JUDGE ARBES: Counsel for Patent Owner, you may proceed and
14 would you like to reserve time for rebuttal?

15 MR. BECK: Yes. I will do a quick introduction, and then, yes.

16 JUDGE ARBES: I can start the clock for you.

17 MR. BECK: Okay. I think we would like to try to spend 25 minutes
18 here and then 20 minutes for our reply/rebuttal time.

19 JUDGE ARBES: Okay. You may proceed.

20 MR. HODGES: Thank you, Your Honors. My name is Ben Hodges.
21 I'm joined by my colleague, Kevin Ormiston, and we're here representing the
22 Patent Owner Front Row Technologies. I will primarily be speaking in
23 rebuttal regarding patentability and Mr. Ormiston is going to deal with
24 whether Patent Owner met the requirements of 121 for its Motion to Amend.
25 So with that, I will turn it over to Mr. Ormiston.

1 MR. ORMISTON: Good afternoon, Your Honors. As has been said,
2 my name is Kevin Ormiston and I represent Front Row Technologies, and
3 I'd like to discuss with Your Honors today Front Row's Motion to Amend
4 and its compliance with Rule 42.121.

5 As we know, the rule has four basic requirements and Patent Owner
6 met these. First, Patent Owner offered a reasonable number of substitute
7 claims. Six original claims, Petitioner originally raised six original claims,
8 Patent Owner offered six substitute claims, 121. That's all I'm going to say
9 about that, that's per se reasonable. Second, these new claims are narrower
10 in scope. Third, the new claims are responsive to grounds of unpatentability
11 raised in the petition and Institution decision, and finally if the new claims
12 do not introduce new subject matter and are directly supported by both the
13 231 specification which led to the 027 patent, as well as the priority
14 document which we'll be discussing today, the 776, which you'll find is
15 Exhibit 1006.

16 As is stated, Your Honors, these claims have been substantially
17 narrowed. Patent Owner understood the opportunity that this Motion to
18 Amend process gave it and specifically substantially narrowed these claims
19 in order to preserve them. Patent Owner did this through two means. First,
20 Patent Owner wanted to narrow these claims in order to get over any art
21 raised in the petition and second, Patent Owner narrowed these claims in
22 order to more specifically tie them to the specification.

23 As you will see, both independent claims have grown by over 2X and
24 this is not a situation of just adding fluff to the claims. This is pulling
25 specific portions of the specification tied to specific embodiments taught in
26 the original 027 patent and narrowing them down.

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