

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ITRON, INC.,
Petitioner,

v.

SMART METER TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2017-01199
Patent 7,058,524 B2

Record of Oral Hearing
Held: June 7, 2018

Before BRYAN F. MOORE, BARBARA A. BENOIT and
JOHN D. HAMANN, *Administrative Patent Judges*.

Case IPR2017-01199
Patent 7,058,524 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Thursday, June 7, 2018, commencing at 9:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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JUDGE HAMANN: Good morning. We are convened here for IPR 2017-01199; for the oral argument for Petitioners Itron, Inc., and the Patent Owner is Smart Meter Technologies, Inc.

I'm Judge Hamann, appearing by video. Out there, in Alexandria are Judges Moore and Benoit. If the parties will, please, introduce themselves, beginning with Petitioner.

MR. BRADLEY: Good morning. For Petitioner, I'm Kirk Bradley with Alston & Bird. And I'm joined today by Brady Cox, also Alston & Bird.

JUDGE HAMANN: Good morning.

MR. CAMMACK: Good morning. For Patent Owner, I'm Decker Cammack from Whitaker Chalk Swindle & Schwartz. And with me is my colleague, Rick Sanchez.

JUDGE HAMANN: Good morning. And to clarify, to the extent you all have not participated in a hearing before where a Judge appears by video. The camera -- my view is directly from behind the Judges that are present there, so if you are looking at them, you're looking at me.

To quickly start with some preliminary matters before we turn to issues related to the hearing, and begin that, there are currently pending Petitioner's request for an authorization to file a motion to expunge; as well as a pending motion by Patent Owner regarding a withdrawal of counsel. To the extent that it's helpful in knowing our findings as to those for today's hearings will provide those orally, and full, in writing, with written order shortly.

1 As to the Petitioner's request or authorization, that is denied.

2 As to Patent Owner's request -- a motion, actually to withdraw
3 counsel, that will be granted with our understanding that it's unopposed by
4 Petitioner. Is that correct?

5 MR. BRADLEY: That's correct, Judge.

6 JUDGE HAMANN: Thank you. And just to be clear. If there's any
7 question, Mr. Sanchez, via the updated Patent Owner notes, is a back-up
8 Counsel, so he certainly, to the extent that's desired, can participate in
9 today's hearing.

10 Turning to preliminary matters as to begin (inaudible), as we begin
11 this now, both sides will be allowed 45 minutes for their presentation. The
12 Petitioner, who bears the burden on patentability, will begin followed by
13 Patent Owner -- response from the Patent Owner, followed by a rebuttal of
14 the Petitioner to the extent of times reserved.

15 Also, obviously I'm appearing by video, but it's helpful to all of us as
16 we are following along, to the extent you are referring to a demonstrative, if
17 you would endeavor to represent a slide by its number, and not only will it
18 help us, but it will provide for a clear record. To the extent that a party has
19 an objection, if they could save those objections until it's their presentation
20 time and we will deal with those at that time.

21 If there's nothing further, Petitioner is free to begin. And if you'd just
22 let me know, Mr. Bradley, to the extent, and how much Petitioner -- time
23 Petitioner is reserving.

24 MR. BRADLEY: Thank you, Judge. I'd like to reserve 15 minutes
25 for rebuttal.

26 JUDGE HAMANN: Thank you.

1 MR. BRADLEY: So, here on slide 2, we see that the issue to be
2 considered by the Board is whether Suh renders obvious claims 17 to 22 in
3 the 524 Patent.

4 Now, as the papers make clear, there's really only one small issue in
5 dispute. The parties agree that Suh discloses all of the other limitations
6 except for one part of the final limitation in claim17, and that part is written
7 here on slide 2, and it says, "Transmitting the IP-based power consumption
8 information from the processor to a destination autonomously in IP format
9 over an external power line network."

10 And as the Board had seen in the papers, the dispute really is only on
11 the last part of that phrase, the part that reads: an external power line
12 network.

13 Here on slide 3 we can see --

14 JUDGE HAMANN: Mr. Bradley --

15 MR. BRADLEY: Yes.

16 JUDGE HAMANN: Mr. Bradley, just if I could, to clarify. I want to
17 make certain I understood what you just said. It's Petitioner's position that
18 Suh doesn't disclose everything? And is that correct?

19 MR. BRADLEY: That is not correct. Petitioner's position is that Suh
20 discloses each of the limitations on all the claims, and renders all of those
21 claims obvious especially when considering in light of the knowledge and
22 one of ordinary skill in the art.

23 JUDGE HAMANN: And what role, if any, does -- it was (inaudible)
24 admitted prior art claims this ground, at a high level. I don't know if you can
25 get to the details now but --

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