

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUJIFILM CORPORATION,
Petitioner,

v.

SONY CORPORATION,
Patent Owner.

Case IPR2017-01389, Patent 6,896,959 B2
Case IPR2017-01390, Patent 7,115,331 B2

Record of Oral Hearing
Held: September 20, 2018

Before JON B. TORNQUIST, JEFFREY W. ABRAHAM, and
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

Case IPR2017-01389, Patent 6,896,959 B2
Case IPR2017-01390, Patent 7,115,331 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Thursday,
September 20, 2018, commencing at 1:00 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

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2 JUDGE ABRAHAM: Good afternoon. We're here for hearings in
3 IPR2017-01389 regarding U.S. Patent Number 6,896,959 and
4 IPR2017-01390 regarding U.S. Patent Number 7,115,331.

5 Let's begin by taking appearances starting with Petitioner.

6 MR. RAGUSA: Sure. Paul Ragusa and Jessica Lin of Baker Botts
7 for Petitioner.

8 JUDGE ABRAHAM: Welcome. Patent Owner?

9 MR. McKEE: John McKee and Eric Huang of Quinn Emanuel for
10 Patent Owner Sony Corporation.

11 JUDGE ABRAHAM: Great. Welcome.

12 Okay. Pursuant to our trial hearing order, each side will have 60
13 minutes of total argument time for the joint hearing today on these two IPRs.
14 Petitioner, you will begin. You can reserve up to half your time for rebuttal.
15 Before you begin, just let me know how much time you'd like to reserve.
16 After that, Petitioner, you'll have your opportunity -- I'm sorry, Patent
17 Owner. And then, Petitioner, you can get up again.

18 We didn't see any objections to any of the demonstratives, so we're
19 just going to go ahead and start with your argument.

20 MR. RAGUSA: Very good, Your Honor. And I'm pleased that
21 the parties were able to work together to iron out any disputes.

22 JUDGE ABRAHAM: Would you like to reserve time for rebuttal?

23 MR. RAGUSA: Your Honor, we would. We'd ask to reserve 10
24 minutes.

25 JUDGE ABRAHAM: Okay.

1 MR. RAGUSA: Oh, Your Honors, would you like a paper copy of
2 the demonstrative exhibits?

3 JUDGE ROESEL: Not for me. Thanks.

4 JUDGE ABRAHAM: I don't need one. Did you provide one for
5 the court reporter?

6 MR. RAGUSA: We have, Your Honor.

7 JUDGE ABRAHAM: Okay. Whenever you're ready.

8 MR. RAGUSA: Okay. So jumping right in, on slide 2 we have a
9 summary of the grounds instituted in the 1390 proceedings for the '331
10 patent. Petitioner has dropped Grounds 7 and 8. And rather than go through
11 all the grounds in detail, we'll turn to them as we hit the prior art references.

12 Slide 3 we have a summary of the grounds instituted for the '959
13 patent and, likewise, we confirmed we were able to drop Grounds 9 and 10.
14 As a roadmap, Your Honors, we'll start with an overview of the challenged
15 patents, including terminology used in those patents. One of the important
16 terms is volume concentration, so we'll spend a little time on that. There's
17 obviously a dispute as to what it means and to its application to the prior art.
18 And then we thought it would be efficient to follow your lead to walk
19 through the prior art with respect to the grounds as opposed to the other way
20 around, so we'll start with Mori as the lead reference, talk about those
21 grounds and then continue from there.

22 Moving on to slide 5. By way of overview, the two patents today
23 are directed to a dual-layer magnetic recording medium, including a
24 non-magnetic substrate, a lower support layer that may or may not be a part
25 of the claim and a magnetic upper layer. And according to the patents'
26 various characteristics of the tape media itself, including the materials used

1 to make the tape media, can impact performance and, importantly, the patent
2 describes a performance characteristic PW50, which is tied to the system,
3 and we'll talk specifically how it's tied to the system in a moment.

4 Briefly going over the claims at issue, to highlight the issues what
5 we've shown here is the '331 Claim 1 with claim elements separated for
6 readability as opposed to being in a block, and we've highlighted the features
7 that are in dispute. Claim 1 recites that the magnetic upper recording layer
8 comprise a volume concentration of at least about 35 percent of a primary
9 magnetic metallic particulate pigment, and we'll talk in a moment about the
10 pigment, a key area of dispute.

11 That pigment has a coercivity of at least 2300 oersteds, and, again,
12 that's another area of dispute with respect to the prior art. The claim then
13 recites that the magnetic pigment particles have a certain length, which is not
14 in dispute as far as I know, and it continues to recite the
15 remanence-thickness product of a certain value less than 5.0 for this
16 particular claim, and the orientation ratio, again, greater than 2.0 or about 2.0
17 in this particular claim and, finally, the pulse width number that we talked
18 about earlier on. And here we, again, have a dispute with respect to the prior
19 art.

20 The second patent, the '959, has parallel limitations. It's, you
21 know, virtually identical with respect to the language used. The numbers are
22 different. They're a little bit broader. And, you know, one issue that I do
23 want to highlight before going further into the terminology is the word
24 "about," which is prevalent in these claims. It is not defined in the patent
25 and it has an impact or could have an impact as to whether or not prior art
26 disclosing certain ranges anticipates claim language, again, depending upon

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