

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUTCHINSON TECHNOLOGY, INC.,
HUTCHINSON TECHNOLOGY OPERATIONS (Thailand) CO., LTD.,

Petitioner,

v.

NITTO DENKO CORP.,

Patent Owner.

IPR 2017-01421
Patent 8,895,870

Record of Oral Hearing
Held: July 17, 2018

Before THOMAS L. GIANNETTI, CHRISTA P. ZADO, and MELISSA H.
HAAPALA, *Administrative Patent Judges*.

IPR 2017-01421
Patents 8,895,870

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Tuesday, July 17, 2018, commencing at 2:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Walter Murphy, Notary Public.

P R O C E E D I N G S

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2 JUDGE GIANNETTI: Please be seated. I'm looking for our remote
3 judges on the monitors. All right. So we are here for the final hearing in
4 case IPR 2017-01421. Let me introduce the panel. I see that they are now
5 on screens. I'm Judge Giannetti. I will be presiding today. On the monitor
6 to my left is Judge Haapala and on the monitor to my right is Judge Zado.
7 They will be participating in this hearing remotely.

8 So with that, let me get your appearances. Who's appearing today for
9 the Patent Owner?

10 MR. CHACHKES: Thank you, Your Honor. Alex Chachkes, with
11 me is Patrick Herman representing the Patent Owner.

12 JUDGE GIANNETTI: Okay. Thank you, Mr. Chachkes. And for the
13 Petitioner.

14 MS. HAYES: Good afternoon, Your Honors. Jennifer Hayes from
15 Nixon Peabody on behalf of Petitioners, and with me today is Mr. Lopez,
16 also from Nixon Peabody.

17 JUDGE GIANNETTI: Okay. Ms. Hayes, will you be making the
18 argument today?

19 MS. HAYES: Yes, I will be making the argument today
20 (indiscernible.)

21 JUDGE GIANNETTI: Okay. Mr. Chachkes -- pardon me if I don't
22 get that right. I'm trying -- and you will be making the argument today?

23 MR. CHACHKES: Yes.

1 JUDGE GIANNIETTI: Okay. All right. So we have a couple of
2 housekeeping matters I want to deal with. I just want to make sure I
3 understand the status of claim 2. Counsel, for Patent Owner would you
4 please fill me in? I understand that claim 2 is going to be canceled; is that
5 the idea?

6 MR. CHACHKES: That's correct, Your Honor.

7 JUDGE GIANNETTI: Okay, fine. So I think that simplifies the trial
8 somewhat in that neither party -- we added additional grounds for that claim
9 in our Order on the 27th pursuant to the SAS decision and since that claim is
10 going to be canceled I think we can limit this action for the other claims to
11 the grounds that were in the decision to institute, and obviously we're going
12 to consider the amended claim, claim 5. Is that your understanding,
13 counsel?

14 MR. CHACHKES: That's our understanding as well.

15 JUDGE GIANNETTI: Okay, fine. And that's okay with you?

16 MR. CHACHKES: Yes.

17 JUDGE GIANNETTI: Okay. Counsel for Petitioner? Is that okay
18 with you?

19 MS. HAYES: Yes. That's okay with Petitioner.

20 JUDGE GIANNETTI: Okay, fine. So we can proceed on that basis, I
21 think that simplifies things. So let me go over some of the ground rules.
22 Each side is going to have 60 minutes and in your presentations you can
23 address the Motion to Amend, the merits of the case as well as the pending
24 motion which I believe is a Motion to Exclude. If you wish to address that,
25 you may. You're not required to, if you don't address it we will just decide

1 those on the papers, and the Petitioner may reserve time for rebuttal and you
2 can let me know about that either at the beginning of your presentation or
3 you can just reserve the balance of your time.

4 I think that's pretty much it. I just want to make sure that you are
5 aware that we do have two remote judges today and so it would be very
6 helpful, in fact necessary, for you in using your demonstratives to call out
7 the slide number. They have your demonstratives, we all do, so we'll be able
8 to follow along and also the record will be able to reflect what you're doing.
9 Your demonstratives are not part of the record. They have not been filed,
10 we're not authorizing you to file the demonstratives. The record of this
11 hearing will be the transcript. Any questions before we begin? Ms. Hayes?

12 MS. HAYES: No, Your Honor.

13 JUDGE GIANNETTI: Mr. Chachkes?

14 MR. CHACHKES: No.

15 JUDGE GIANNETTI: Okay, fine. So, Petitioner, you're up first.
16 Ms. Hayes, you may proceed when you're ready.

17 MS. HAYES: Thank you, Your Honor, and we do have courtesy
18 copies of the trial demonstratives but do you already have a copy?

19 JUDGE GIANNETTI: Well, I have my copy. If you want to hand a
20 copy up that's fine. Our remote judges also have copies that you sent to us.
21 Just hand up one copy, I think that'll be enough. Okay, thank you. All right,
22 Ms. Hayes, whenever you're ready.

23 MS. HAYES: Good afternoon, Your Honors. I would like to reserve
24 15 minutes of rebuttal time.

25 JUDGE GIANNETTI: Okay, fine.

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