

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOMTOM, INC.,
Petitioner,

v.

BLACKBIRD TECH LLC d/b/a/ BLACKBIRD TECHNOLOGIES,
Patent Owner.

Case IPR2017-02023
Patent 6,434,212 B2

Record of Oral Hearing
Held: December 11, 2018

Before DEBRA K. STEPHENS, THOMAS L. GIANNETTI, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

Case IPR 2017-02023
Patent 6,434,212 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

DIPU A. DOSHI, ESQUIRE
MEGAN WOOD, ESQUIRE
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BEHALF OF THE PATENT OWNER:

WALTER DAVIS, ESQUIRE
ALDO NOTO, ESQUIRE
Davidson Berquist Jackson & Gowdey
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The above-entitled matter came on for hearing on Tuesday, December 11, 2018, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Chris Hofa, Notary Public.

P R O C E E D I N G S

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2 JUDGE GIANNETTI: So welcome to the Patent Trial and
3 Appeal Board. We have one case on for argument today, case 2017-02023
4 which is Tomtom Inc., v. Blackbird Technologies. Let me begin by
5 introducing the panel. I'm Judge Giannetti and I will be presiding at today's
6 hearing. On the screen to my left, on the left portion of the screen, we have
7 Judge Zado and to the right we have Judge Stephens. So with that, let me
8 get the appearances of counsel. Who is appearing today for the Petitioner?

9 MR. DOSHI: For Petitioner, Your Honor, Dipu Doshi and
10 Megan Wood from Blank Rome.

11 JUDGE GIANNETTI: Okay, Mr. Doshi, thank you. Will you
12 be making the presentation, Mr. Doshi?

13 MR. DOSHI: Yes, Your Honor.

14 JUDGE GIANNETTI: Okay. And for the Patent Owner.

15 MR. DAVIS: Good afternoon, Your Honor. Walter Davis and
16 with me is Aldo Noto with Davidson & Berquist on behalf of the Patent
17 Owner Blackbird.

18 JUDGE GIANNETTI: Okay, Mr. Davis.

19 MR. DAVIS: And I'll be making the presentation.

20 JUDGE GIANNETTI: Okay, Mr. Davis. So let me just go
21 over the ground rules. Each side has 45 minutes to present argument and
22 Petitioner may reserve rebuttal time and you can tell me how much rebuttal
23 time you want at the beginning of your presentation. I'll give you warning
24 when you reach that point.

1 I want to mention, I see both sides have demonstratives. The
2 demonstratives are not part of the record of this hearing so if you want
3 something in the record for the hearing please include it in your oral
4 presentation and --

5 UNIDENTIFIED SPEAKER: I think your mike is turned off.

6 JUDGE GIANNETTI: It's green.

7 UNIDENTIFIED SPEAKER: It's green? Okay.

8 JUDGE GIANNETTI: Yes. Can you hear, remote judges can
9 you hear me? Judge Stephens, can you hear, Judge Stephens? Judge Zado?
10 I think there's something wrong with our sound system. Let's take a pause.

11 (Pause.)

12 JUDGE GIANNETTI: All right. So we have two remote
13 judges. When you use your demonstratives, please be sure to give us the
14 slide number that you're on so our remote judges can follow along and
15 please, in view of our sound problems here, please make sure that when you
16 are speaking you are near the microphone so that everyone can hear you. I
17 can hear you here but our remote judges are dependent upon our sound
18 system which seems to be acting up a little bit today, so please speak into the
19 microphone when you make your presentations. Any questions before we
20 begin from the Petitioner?

21 MR. DOSHI: Your Honor, we have copies of the
22 demonstratives. I don't know if you want these.

23 JUDGE GIANNETTI: Well if you'd like to hand me a copy,
24 that's fine. Our remote judges have the copy that you sent by email.

25 MR. DOSHI: May I approach?

1 JUDGE GIANNETTI: Yes certainly. Okay, thank you. Any
2 questions from Patent Owner? Mr. Davis?

3 MR. DAVIS: No, Your Honor.

4 JUDGE GIANNETTI: All right. I think we're ready to begin.
5 Mr. Doshi, you may proceed when you are ready.

6 MR. DOSHI: Thank you, Your Honor.

7 JUDGE GIANNETTI: First of all, do you want to reserve time
8 for rebuttal?

9 MR. DOSHI: Yes, 10 minutes please.

10 JUDGE GIANNETTI: Ten minutes, okay. You may proceed.

11 MR. DOSHI: Good afternoon, may it please the Board. My
12 name is Dipu Doshi from Blank Rome for Petitioner Tomtom, Inc.

13 JUDGE GIANNETTI: Mr. Doshi, I think you're going to have
14 to speak up.

15 MR. DOSHI: Sure, I'll do my best.

16 JUDGE GIANNETTI: I want to make sure everyone hears
17 your argument.

18 MR. DOSHI: I'm typically soft spoken so I apologize. I will
19 try to enunciate.

20 JUDGE GIANNETTI: This is not the time to be soft spoken.

21 MR. DOSHI: Thank you, Your Honor. So we are here for the
22 212 patent, claims 1 through 8 of the 212 patent are nothing more than the
23 obvious combination of the prior art references that Petitioner relies on in its
24 petition. Jimenez is the base reference and that discloses a pedometer
25 having a strap, a step counter and a heartrate monitor.

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