

RECORD OF ORAL HEARING
U.S. PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HYTERA COMMUNICATIONS CORP. LTD.,
Petitioner

v.

MOTOROLA SOLUTIONS, INC.,
Patent Owner.

Case IPR2018-00128
Patent 8,116,284 B2

Oral Hearing Held: February 8, 2019

Before TREVOR M. JEFFERSON, DANIEL N. FISHMAN, and PATRICK
M. BOUCHER, *Administrative Patent Judges*.

Case IPR 2018-00128
Patent 8,116,284 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Friday, February 8, 2019, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P-R-O-C-E-E-D-I-N-G-S

2 1:11 p.m.

3 JUDGE JEFFERSON: This is trial and hearing IPR 2017-00128,
4 Patent Number 8,116,284 owned by Motorola Solutions. Petitioner in this
5 case is Hytera Communications Corporation.

6 I'm Judge Jefferson. With me remotely as we know from our
7 earlier hearings is Judges Fishman and Boucher.

8 We'll do away with the regular instructions, but I'll still ask you to
9 make appearances. So at this time, we'll start with Petitioner.

10 MR. TUCKER: Yes, Your Honor. Todd Tucker from Calfee,
11 Halter & Griswold for Petitioner Hytera. With me is my colleague Josh
12 Friedman.

13 JUDGE JEFFERSON: Welcome. Patent Owner.

14 MR. ALPER: Good afternoon, Your Honors. Adam Alper from
15 Kirkland & Ellis for Patent Owner Motorola Solutions.

16 JUDGE JEFFERSON: Thank you. Each side will have 60
17 minutes to make their presentation. Petitioner may reserve rebuttal time on
18 those issues you have final say on. And you may begin when you're ready.

19 MR. TUCKER: Thank you, Your Honor. I'd like to reserve 20
20 minutes.

21 JUDGE JEFFERSON: Okay. The warning should start at 5
22 minutes to, to go with your --

1 MR. TUCKER: Thank you. Okay.

2 JUDGE JEFFERSON: But I'll count down from 60 so you know
3 where we are. You may begin.

4 MR. TUCKER: Thank you, Your Honor. So the '284 patent,
5 again, is nothing more than a relatively simple concept of letting a subscriber
6 radio pick an open channel for communication without having to request any
7 detailed channel assignment from the system. Really nothing more,
8 nothing less.

9 In old systems, radios would have to request an open channel and
10 receive an assignment before every transmission from the operating system,
11 which would cause delays. The '284's claimed solution to this issue of it
12 taking a while to get what channel you're communicating on is exceedingly
13 simple.

14 We're going to have a talkgroup of radios. They're going to have
15 two channels available to them. When we want to communicate, we check
16 if one channel is available. If it's not, use the other one.

17 Not surprisingly, this two timeslot rather straightforward concept is
18 found in numerous pieces of prior art. In the initial determination, the
19 Board focused on the Ganucheau reference. But in addition to Ganucheau,
20 Petitioner submits that the combination of Barnes and Janky renders the
21 claims obvious as well as the Wiatrowski patent, which we discussed this
22 morning in the '991, anticipates the claims.

1 What the patent does is it attempts to take this really straightforward
2 simple concept and make it much more complicated than it is by breaking it
3 into these really trivial steps like determining, searching and selecting.

4 So we've got this kind of fancy descriptions of very simple, very
5 simple steps. And the reason that they are very trivial is for the most part,
6 we're dealing, similar with the Wiatrowski '991 patent, with just a two
7 timeslot system.

8 So there's not a lot that goes into determining from a two timeslot,
9 searching in two timeslots, selecting in a two timeslot, because you have the
10 channel you can be on and an alternate. That's it.

11 Additionally, there is -- in addition to the two timeslot channels the
12 dependent claims have reference to what's called a Common Announcement
13 Channel. And that third channel, the Common Announcement Channel,
14 what it does is it provides, for instance, some status information to the
15 talkgroup.

16 That said, the '284 has almost no detail on Common Announcement
17 Channel. In the papers it appears the Patent Owner is trying to make the
18 Common Announcement Channel read very narrowly on the term Common
19 Announcement Channel, the ETSI standard. The problem with that is even
20 though the '284 patent was filed well after the ETSI standard, even though
21 the Wiatrowski prior art reference talks about the ETSI standard, the '284
22 patent mentions ETSI nowhere.

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