

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MMODAL LLC,
Petitioner,

v.

NUANCE COMMUNICATIONS, INC.,
Patent Owner.

IPR2018-01435
Patent 6,999,933 B2

Before KEN B. BARRETT, NEIL T. POWELL, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

We have authority to hear this *inter partes* review under 35 U.S.C. § 6. This Final Written Decision issues pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, we determine that MModal LLC (“Petitioner”)¹ has shown, by a preponderance of the evidence, that claims 9–11 (“challenged claims”) of U.S. Patent No. 6,999,933 B2 (Ex. 1001, “the ’933 patent”) are unpatentable. *See* 35 U.S.C. § 316(e) (2012); 37 C.F.R. § 42.1(d) (2018).

A. Procedural History

Petitioner filed a Petition for *inter partes* review of claims 9–11 of the ’933 patent. Paper 1 (“Pet.” or “Petition”). Nuance Communications, Inc. (Patent Owner)² subsequently filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). On February 19, 2019, the Board entered a decision instituting an *inter partes* review of all claims and all grounds presented in the Petition. Paper 7 (“Institution Decision” or “Inst. Dec.”).

After institution, Patent Owner filed a Response to the Petition, Paper 33 (“Response” or “PO Resp.”),³ and Motion to Seal and for Entry of a Protective Order, Paper 20. Petitioner thereafter filed a Reply to Patent Owner’s Response, Paper 37 (“Pet. Reply” or “Reply”) and Supplemental Motion to Seal, Paper 34. Patent Owner filed a Sur-reply to Petitioner’s

¹ Petitioner identifies as real parties-in-interest to the Petition MModal LLC, New MMI Holdings, Inc., MModal Services, Ltd., and Multimodal Technologies, LLC. Pet. 5.

² Patent Owner identifies only itself as a real party-in-interest to this proceeding. Paper 4, 2.

³ Patent Owner filed two versions of its Response, a public version (Paper 33) and a confidential version (Paper 32). Unless expressly stated otherwise, herein we refer to the public version.

Reply to Patent Owner's Response. Paper 44 ("Sur-reply").⁴ Petitioner filed a Sur-sur-reply. Paper 53 ("Sur-sur-reply").

An oral hearing was held on November 14, 2019. A transcript of the hearing is included in the record. Paper 58 ("Tr.").

B. Related Matters

The parties advise that the '933 patent has been asserted in *Nuance Communications, Inc. v. MModal LLC*, 1:17-cv-01484 (D. Del.). Pet. 5; Paper 4, 2.

C. The '933 Patent

The '933 patent generally relates to editing transcribed text during synchronous playback of a corresponding audio recording. Ex. 1001, code (57).

The specification of the '933 patent ("Specification") describes known speech recognition devices, stating that such known devices

recognize[] text information from the speech information of the dictation by the author sent to it, with link information also being established. The link information marks for each word of the recognized text information, part of the speech information for which the word was recognized by the speech recognition device. The speech information of the dictation, the recognized text information and the link information is transferred from the speech recognition device to the computer of the corrector [i.e., an employee of a transcription service who manually corrects text information recognized automatically with a speech recognition

⁴ Patent Owner filed two versions of its Sur-reply, a public version (Paper 44) and a confidential version (Paper 43). Unless expressly stated otherwise, herein we refer to the public version.

program] for correction of the incorrect words in the recognized text information.

Ex. 1001, 1:19–21, 1:29–39.

The Specification also describes known correction devices, e.g., the computer of the corrector, stating that such known devices

contain[] synchronous play means, with which a synchronous play-back mode is made possible. When the synchronous playback mode is active in the correction device, the speech information of the dictation is played back while, in synchronism with each acoustically played-back word of the speech information, the word recognized from the played-back word by the speech recognition system is marked with an audio cursor. The audio cursor thus marks the position of the word that has just been acoustically played-back in the recognized text information.

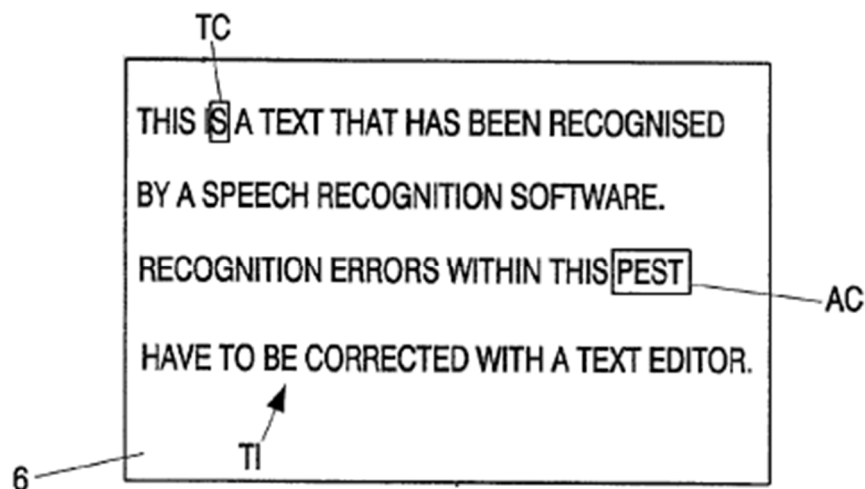
Id. at 1:40–50.

The Specification identifies an alleged problem with known correction devices. When a corrector recognizes an incorrect word in the text information, the corrector must interrupt or deactivate the synchronous playback mode, position a text cursor at the location of the incorrect word by means of computer keyboard, and only then may edit the incorrect word. *Id.* at 1:52–55. Thereafter, the corrector may reactivate the synchronous playback mode and resume looking for incorrect words. *Id.* at 1:55–58. According to the Specification, known correction devices require a large number of manual activities to activate/deactivate synchronous playback and to position a text cursor, and that such activities are time consuming. *Id.* at 2:7–13. The Specification states that a corrector has a major interest in saving time and having the lowest possible manual effort, and would

therefore seek to enter corrections with minimal manual activity. *Id.* at 1:65–2:6.

The Specification explains that in known correction devices, during synchronous playback, a corrector normally is checking the word in text, marked by the audio cursor, corresponding to the acoustic playback of that word. However, the text cursor denoting where corrections will occur is normally at a position totally different from that of the audio cursor. *Id.* at 3:44–51. Namely, the text cursor in the known correction device is at the position in the text where the previous incorrect word was corrected. *Id.* at 3:51–52. The Specification addresses this problem by providing a correction device that synchronizes the text cursor with the audio cursor, so that the text cursor is positioned at the location marking the latest word acoustically played back. *Id.* at 3:55–58, 3:63–4:4, 4:7–12, 4:16–21, 4:26–30.

An excerpt of Figure 1 of the '933 patent, reproduced below, is illustrative of the display screen of a correction device.



Ex. 1001, Fig. 1. The excerpt of Figure 1 shows screen 6 displaying written text information TI, text cursor TC, and audio cursor AC. *Id.* Text cursor

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