

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

SYNKLOUD TECHNOLOGIES, LLC,
Patent Owner.

IPR2019-01655
Patent 9,098,526 B1

Record of Oral Hearing
Held: December 17, 2020

Before SALLY C. MEDLEY, JESSICA C. KAISER, and
SCOTT RAEVSKY, *Administrative Patent Judges*.

IPR2019-01655
Patent 9,098,526 B1

APPEARANCES:

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The above-entitled matter came on for hearing on Thursday,
December 17, 2020, commencing at 1:01 p.m. EST, via Videoconference.

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

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3 1:01 p.m.

4 JUDGE MEDLEY: Good afternoon, this is the hearing for
5 IPR2019-01655 between Unified Patents and Synkcloud Technologies
6 involving U.S. Patent number 9,098,526.

7 I am Judge Medley and with me are Judges Kaiser and Raevsky. So,
8 at this time we'd like the parties to please introduce Counsel for the record
9 beginning with the Petitioner.

10 MR. BAIRD: Good afternoon, Your Honors, my name's John
11 Baird. I'm lead Counsel for Petitioner, Unified Patents. On the line with me
12 is Co-Counsel, Patrick McPherson.

13 JUDGE MEDLEY: Okay, thank you.

14 MR. GONSALVES: Good afternoon, Your Honor. My name is
15 Gregory Gonsalves representing the Patent Owner, Synkcloud.

16 JUDGE MEDLEY: Thank you. All right; each party has 60 minutes
17 total time to present arguments. Petitioner, you will proceed first and you
18 may reserve some of your argument time to respond to arguments presented
19 by Patent Owner. Thereafter, Patent Owner will respond to Petitioner's
20 presentation and you may reserve argument time for surrebuttal. Petitioner,
21 do you wish to reserve some of your time to respond?

22 MR. BAIRD: I would, Your Honor. I'd like to reserve 20 minutes.

23 JUDGE MEDLEY: Okay. Thank you. And, Patent Owner, would you
24 like to reserve some of your time?

25 MR. GONSALVES: Yes, I'll reserve 15 minutes, please.

1 JUDGE MEDLEY: Fifteen minutes. Okay; all right, thank you.
2 And just a reminder the hearing is public. There is a public line and there
3 are participants on that line. Before we get started, I have a procedural
4 question for the parties.

5 On October 30th, Petitioner filed an updated mandatory notice paper
6 indicating that claims 1 through 10 of the 526 Patent were invalidated under
7 35 USC 101 in a related District Court proceeding.

8 The question is for both parties, anybody can chime in, what is the
9 status of that District Court proceeding, and have there been any settlement
10 discussions in lieu of the District Court's holding?

11 MR. BAIRD: On behalf of Petitioner, there haven't been any
12 settlement discussions that we've been involved with. Petitioner's not
13 involved in that litigation so, Patent Owner would know more about that
14 case so, I'll defer to the Patent Owner.

15 JUDGE MEDLEY: Mr. Gonsalves, do you have anything to add to
16 that please?

17 MR. GONSALVES: I'm not aware of any settlement negotiations
18 taking place at this time. I will also note that it's my understanding that a
19 101 decision by the District Court either has been or will be appealed to the
20 Federal Circuit.

21 JUDGE MEDLEY: Okay. So, a judgment's been entered in the
22 case? Or is it continuing on with other issues?

23 MR. GONSALVES: Because I don't know for sure because that's a
24 matter for litigation Counsel, if you wish we could investigate it and then get
25 back to you via email. But I don't want to say something that I'm not
26 certain on.

1 JUDGE MEDLEY: Okay. That's fine. Yes, so if you have an
2 opportunity to do that -- that would be appreciated. And I just want to
3 remind the parties that when you are not speaking to please mute your
4 microphone. I hear a lot of background noise. So, with that in mind,
5 Petitioner, you may begin.

6 MR. BAIRD: Thank you, Your Honor. May it please the Board to
7 turn to Slide 2 of my demonstratives. This IPR challenges all claims of the
8 challenged patent, which is the 526 Patent based on two grounds.

9 And to give a brief overview of where I'd like to go in the argument,
10 I'll turn first to the 526 Patent generally to give an introduction to that --
11 then touch on the three-point construction issues that have been briefed in
12 the papers. And then turn to arguments on Ground 1 and then Ground 2 and
13 then wrap up briefly with the secondary considerations.

14 So, turning to Slide 3, the highest level of the 526 Patent has three
15 key components to it. There's a wireless device in the background of the
16 Patent. The Patent talks about if it was known in the prior art that wireless
17 devices had limited storage until the invention was to provide the most
18 storage for the wireless device.

19 That amount of storage was affected by two components, a server
20 and then the storage space itself. Server controls the storage spaces and one
21 of the storage spaces is provided to each of the number of wireless devices
22 that are using the storage space.

23 So, looking at Figure 3 --

24 JUDGE MEDLEY: Excuse me, I'm sorry to interrupt you. I'm
25 sorry. We are still hearing a lot of background noise. I'm wondering, Mr.

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