

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CONTINENTAL AUTOMOTIVE SYSTEMS, INC.,
Petitioner,

v.

INTELLECTUAL VENTURES II LLC,
Patent Owner.

IPR2022-00974
Patent 8,953,641 B2

Held: September 6, 2023

Before: AMBER L. HAGY, JASON W. MELVIN, and
AARON W. MOORE, *Administrative Patent Judges.*

IPR2022-00974
Patent 8,953,641 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on September 6, 2023,
commencing at 2:00 p.m., via video teleconference.

P R O C E E D I N G S

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3 JUDGE MOORE: All right. Good day, everyone. We're gathered
4 here for a hearing in our matter IPR 2022-00974. The case is now captioned
5 Continental Automotive Systems vs. Intellectual Ventures II LLC. I'm APJ
6 Moore. APJs Hagy and Melvin are also present by video. Can we have
7 appearances for the Petitioner, please?

8 MR. GOLDBERG: Good afternoon, Your Honor. Joshua
9 Goldberg for Petitioner. With me, I have my lead counsel, David Reese, and
10 also additional backup counsel, Alex Harding. Alex Harding and I will be
11 presenting the argument for Petitioner today.

12 JUDGE MOORE: Okay. Thank you. And for Patent Owner?

13 MR. GOLUB: This is Dan Golub. I'll be doing the arguing on
14 behalf of the Patent Owner today. I am joined by Ryan O'Donnell who's
15 sitting next to me, who's the lead counsel.

16 JUDGE MOORE: Okay. And Mr. Golub, are you lead or backup
17 counsel in the case?

18 MR. GOLUB: Backup.

19 JUDGE MOORE: Okay. All right. Well, our primary concern
20 today is that we preserve everyone's right to be heard. So, if at any time you
21 have a technical problem that prevents you from participating, please let us
22 know immediately. I'll ask you to oh, I'm sorry -- I well, I forgot to do
23 something for the court reporter, but I'll do it as we go along. Please identify
24 yourself for the court reporter each time you begin speaking, and when not
25 speaking, please mute your connection. Please be sure that when referring

1 to the demonstratives, papers, or exhibits, you identify the item for the
2 record.

3 And I will note that this hearing is open to the public. All right.
4 Our hearing order granted each side 60 minutes. I will keep the time. And
5 please let me know at the beginning of your argument if you wish to reserve
6 time for rebuttal. And with that, Petitioner, you may begin when ready.

7 MR. GOLDBERG: Thank you, Your Honor. Again, this is Joshua
8 Goldberg for Petitioner, and I'd like to reserve 45 minutes.

9 JUDGE MOORE: Okay.

10 MR. GOLDBERG: I'd like to begin, Your Honors, on slide 21.
11 We can see on this slide that the prior art references at issue both relate to
12 variable bandwidth. At the top, we have Hwang. It says that to support
13 scalable bandwidth from 2.5 megahertz to 20 megahertz, and then it goes on
14 from there. And then McFarland at the bottom of the slide, it's talking about
15 the overall occupied bandwidth can be varied.

16 That's what the '641 Patent is about as well. It's titled, Methods
17 and Apparatus for Multi-Carrier Communications with Variable Channel
18 Bandwidth. IV doesn't seem to disagree with this. Instead, IV argues that
19 one of ordinary skill in the art wouldn't have had a reasonable expectation of
20 success in combining the references. IV argues that AAS map-first location,
21 the channel estimation and an uplink ranging sub-channel would create
22 problems. I'll get to those in a few minutes, but I'd like to first address the
23 reasoning behind the combination.

24 We turn to slide 22. Hwang teaches a scalable OFDM frame
25 structure, including variable bands. These are shown in the table at the

1 bottom, 2.5 megahertz, 5 megahertz, 10 megahertz, and 20 megahertz,
2 which each use a different number of subcarriers. We can see those at the
3 bottom, 216, 432, 864, and 1728, respectively. But Hwang doesn't provide
4 implementation details. If we go to slide 23, McFarland does. We can see
5 at the top right there are a number of ways to change the number of carriers
6 in active use. And Figure 9 of McFarland shows a circuit in which the IFFT
7 processor itself has been designed to disable portions of its internal circuitry
8 depending on how many carriers are active. McFarland calls its variable
9 bands modes. And we can see at the bottom the combination of symbol rate
10 and number of carriers will be called the operating mode.

11 Turning to slide 24, both references scale the same way using the
12 number of carriers. Again, as we discussed earlier on the bottom, Hwang,
13 we can see that when you go, for example, from 2.5 MHz to 5 MHz, the
14 used subcarriers goes from 216 to 432, and that correspondence goes all the
15 way across to the right. And then in McFarland, the single IFFT processor
16 can be used without modification to generate a different number of carriers.

17 Moving to slide 25, McFarland also teaches an improvement to
18 Hwang, namely how to provide accessibility for legacy devices. On the left-
19 hand side, we have a quote from our expert, Dr. Akl. He says that
20 specifically, by placing the header portion of Hwang's frame, such as
21 preambles within a base mode, subscriber stations that do not support all
22 system bandwidths would be capable of operating in the system. And
23 subscriber stations entering the network would have been able to perform
24 cell search based on an expected header transmission. IV complains that Dr.
25 Akl never used the words reasonable expectation of success in discussing the

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