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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA,)
INC., SAMSUNG ELECTRONICS CO.)CASE NO.
LTD.,)IPR2025-00011
)
PETITIONERS,)
)
VS.)
)
COLLISION COMMUNICATIONS, INC.,)
)
PATENT OWNER.)
_____)

REPORTER'S REMOTE
TRANSCRIPT OF PROCEEDINGS
DECEMBER 23, 2024

TECKLA T. CLAY, CSR 13125
OFFICIAL REPORTER PRO TEMPORE

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APPEARANCES:

FOR PETITIONER:

QUINN EMANUEL URQUHART AND
SULLIVAN, LLP

BY: JAMES GLASS

QUINCY LU

51 MADISON AVENUE, 22ND FLOOR
NEW YORK, NEW YORK 10010

FOR PATENT OWNER:

MINTZ

BY: WILLIAM A. MEUNIER

KEVIN AMENDT

ONE FINANCIAL CENTER
BOSTON, MASSACHUSETTS 02111

ALSO PRESENT:

JUDGE DONALD E. DAYBELL

JUDGE CHARLES J. BOUDREAU

TRANSCRIPT OF PROCEEDINGS

DECEMBER 23, 2024

1:03 P.M.

THE COURT: Hello this is Judge Daybell. We can go on the record I guess for the call. Do we have a court reporter on the line?

COURT REPORTER: Yes, we're on the record.

THE COURT: Awesome. This is a call for IPR2024-101247 and 01249. I'm Judge Daybell. With me is Judge Boudreau. So the purpose of the call is to discuss petitioner's request to leave to file a reply to of the patent owner's preliminary response in each of these matters. Can I have appearances for the petitioner?

MR. GLASS: Sure. Good afternoon your Honors, Jim Glass with petitioner. With me on the record also is back up counsel Quincy Lu also with Quinn Emanuel.

THE COURT: Thank you, Mr. Glass. And for patent owner?

MR. MEUNIER: Good afternoon your Honors, this is Bill Meunier from Mintz for the patent owner. Also on the line with me is back up counsel from Mintz Kevin Amendt. Thanks for taking the time today right before

Page 3

1 Christmas Eve. Appreciate it.

2 THE COURT: Welcome. Thank you, Mr. Meunier.
3 So earlier today petitioners e-mailed the board and
4 indicated that the parties had made some progress in
5 narrowing the issues for the call. We understand first
6 that petitioner wishes to file a Sotera stipulation in
7 both the 1247 and 1249 proceedings; is that correct?

8 MR. GLASS: That is correct your Honor.

9 THE COURT: Thank you. We're going to go ahead
10 and authorize that. So petitioner is authorized to
11 file a Sotera stipulation.

12 MR. GLASS: Thank you, your Honor.

13 THE COURT: You're welcome. We further
14 understand that petitioner has agreed solely for
15 purposes of the 1247 proceedings to accept the patent
16 owner's proposed construction under section 112-6 for
17 the multi-user detector decision unit term; is that
18 correct.

19 MR. GLASS: That is correct, your Honor, without
20 conceding that that is the correct construction I can
21 get into the details of that. But the short answer is
22 that is correct.

23 THE COURT: Thank you. So I believe the only
24 issue remaining for this call is petitioner's request
25 for additional briefing related to that term; is that

1 correct?

2 MR. GLASS: That is correct, subject to, I mean
3 I can explain in a moment. I think that briefing would
4 be very short, perhaps a page at most simply to explain
5 how the petition as drafted without citing to any
6 additional evidence or apportions of prior art, the
7 petition on it's face renders the claims unpatentable
8 under patent owner's 112-6 construction.

9 THE COURT: Thank you. I assume that was Mr.
10 Glass. Thank you. As you know petitioner needs to
11 show good cause for additional briefing. So why don't
12 you, I'd like to hear from petitioner as to your
13 position on the showing of good cause due for this
14 briefing.

15 MR. GLASS: So the good cause, your Honor, is
16 that this was an unforeseeable position to date. We
17 are aware now as of the POPR that, and this addresses
18 one of the questions your Honors had, that there is a
19 district court case out there involving patent owner
20 and I believe it's Nokia addressing this term and
21 construing it as a 112-6 limitation.

22 Addressing one of the questions your
23 Honors had, and I think this is why your Honors asked
24 it are, when we were first aware of this I can tell you
25 that I wasn't aware of it. I worked on this petition

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1 with Mr. Lu. Neither one of us were aware of this when
2 we filed the petition.

3 I won't speak for counsel, but as far as I
4 know from our call last week they weren't aware of it
5 either until I believe he said running up to the POPR.
6 So we were not aware of that decision. We were not
7 aware that there was a district court decision
8 construing this term as means-plus-function.

9 On it's face the term does not use the
10 word means. It's a detector which we have the PMC
11 case, I'm sure everyone's familiar with that, that if
12 it's on it's face the word detector connotes specific
13 structure. So we did not interpret that to be a
14 means-plus-function limitation. And I think the
15 reasonable approach would have been that that is not a
16 mean-plus-function.

17 I note that patent owner did not identify
18 that Texas case in their mandatory disclosures. In the
19 litigation, I won't dive into this, I know your Honors
20 don't want much detail on litigation, but in the
21 infringement contentions from March in Eastern District
22 Texas patent owner was required to identify terms that
23 they believed were means-plus-function. This term was
24 not identified as a means-plus-function limitation.

25 So leading up to our petition I think

1 objectively all of the parties looked at this and said,
2 well I can speak that we looked at this and said this
3 is not reasonably a means-plus-function limitation.

4 After we, after we saw their POPR we
5 understand that they're taking the position now that it
6 is. We have by the way agreed in the litigation for
7 very similar reasons that we will not oppose their
8 position that this is a means-plus-function limitation
9 again just to focus the, on the substantive issues.

10 And we're taking that position for the
11 very same reason here that ultimately it simply doesn't
12 matter whether this is plain and ordinary meaning or
13 means-plus-function. The prior art renders the claims
14 unpatentable under either approach.

15 And in fact if you look at claim 3, claim
16 3 expressly brings in some of the very same structure
17 that they have identified for the multi-user detector
18 as further limiting that detector. And we've matched
19 claims 1 and claim 3 identically.

20 So the good cause, I'll conclude, the good
21 cause here is that this was not a foreseeable position.
22 They claim that we were aware of this for a year.
23 There's no evidence that we were. I am stating on the
24 record that we were not, that me and my colleague who
25 drafted this petition were not. And from

1 representations counsel made to me last week, they
2 weren't aware of it. I'm sure they would have put it
3 on their mandatory disclosures if they were.

4 THE COURT: Let me pause you for a moment there.

5 MR. GLASS: Sure.

6 THE COURT: So a couple of clarifying questions.
7 When you say that you and your co-counsel were not
8 aware of this, are you referring to the prior
9 litigation in it's entirety or to the claim
10 construction issues, the order, exactly when you say
11 "this" what are you referring to?

12 MR. GLASS: The Nokia litigation involving
13 Collision. It's not something that came up while we
14 were drafting this petition. We were not aware of it.

15 THE COURT: Okay thank you. And you mentioned
16 that, and I'm sure we'll hear from counsel for patent
17 owner on this as well, you mentioned that patent owner
18 in the underlying litigation between the 2 of you filed
19 a list of terms proposed for construction and that list
20 of terms did not include this multi-user, multi-user
21 detector decision unit term; is that correct?

22 MR. GLASS: With one slight difference. So it
23 was infringement contentions, your Honor, it was filed
24 in March of 2024. And --

25 THE COURT: Okay.

1 MR. GLASS: -- in the Eastern District of Texas
2 you're required by rule to identify any terms that you,
3 that you are, maintain should be construed pursuant to
4 112-6. They did not affirmatively identify that term
5 pursuant to 112-6.

6 They did in the body after repeated use of
7 the claim say to the extent the Court does construe
8 this as 112-6 they then identify some mappings to our
9 product. But that was not a term that they identified
10 as 112-6. It was not identified by the parties.

11 And I want to be clear that we have, just
12 like we're doing here we have agreed in the litigation
13 not to pursue whether this is 112-6. That happened
14 last week the parties submitted a joint claim
15 construction on this term.

16 And just like I'm doing here it was not,
17 we've decided not to, not to object to their, to their
18 identification and their construction on that term.
19 Does that answer your question?

20 THE COURT: Thank you. It does. And I think
21 you've even anticipated my next question. I was
22 wondering what stage the, 2 questions I guess, what
23 stage are the parties currently at in the claim
24 construction process in the underlying litigation? And
25 the second part is what stage were the parties at in

1 the claim construction process when the petition was
2 filed?

3 MR. GLASS: The petition was filed in August and
4 at that stage, I'm sure counsel will correct me if I'm
5 wrong, at that stage I believe the only thing we had
6 was the infringement contentions from particular, I
7 don't believe that even the parties had exchanged terms
8 to be construed. So anyway I believe that's the case.

9 If I'm wrong I'm sure counsel, okay I've
10 just been informed the terms were exchanged November 4
11 which was months after we filed our petition.

12 THE COURT: Okay thank you.

13 MR. GLASS: So we were well beyond.

14 THE COURT: And what stage are you at right now?

15 MR. GLASS: So we just filed last week a joint
16 claim construction chart with the parties joint
17 positions. I'm not aware of the briefing schedule but
18 we have not yet briefed any issues.

19 THE COURT: Okay thank you. You had something
20 you wanted to add before I cut you off, if you have
21 anything else to say.

22 MR. GLASS: No, your Honor. I think I've
23 answered your questions and said what I needed to say
24 on that point.

25 THE COURT: Thank you very much. I'll turn now

1 to patent owner, your response you have to petitioner's
2 presentation.

3 MR. MEUNIER: Sure, yes thank you, your Honor.
4 For the court reporter this is again Bill Meunier from
5 Mintz. I'm trying to think of the nicest way to say
6 this, your Honors.

7 There's 2, there's 3 things that I want to
8 address whether counsel knew about that earlier case
9 and the claim construction order, whether there
10 actually has been a claim construction dispute and then
11 the notion that there's good cause for whatever
12 briefing they want to, they're seeking now because it
13 certainly isn't what they've been seeking all along.

14 So first I want to address the notion or
15 the claim that Mr. Glass, the Quinn firm and the folks
16 involved in that IPR did not know about that earlier
17 litigation being Nokia and Ericsson, the Eastern
18 District Texas court. They did.

19 Put aside the notion that they've been
20 defending that case for almost at least 9 months before
21 they filed the petition on August 1st.

22 Put aside the fact that, that the earlier
23 case against Nokia and Ericsson were in that same exact
24 court and in front of that same exact judge who issued
25 that claim construction order, Judge Gilstrap. It

1 boggles the mind that they wouldn't know by that point
2 about that claim construction. Let's ignore all that.

3 They filed the petition we're talking
4 about right now, right now we're only talking about 1,
5 1247 on August 1st. On August 2nd they filed another
6 petition related to patent asserted in the current
7 case, that petition, petition 2024-01248. Within that
8 petition they talk about that previous litigation
9 extensively.

10 They talk about why the IPR's filed in
11 connection with that previous litigation, that they say
12 they don't know about. The very next day they talked
13 about it extensively in the petition that they filed
14 that very next day. That's on page 15 of their
15 petition in the 1248.

16 They talk about why quote/unquote "that
17 because of the advanced stage of the co-pending
18 district court litigation." That's the prior
19 litigation they're talking about there, your Honors.
20 They knew about it.

21 And if that's not clear enough on pages 90
22 to 91 they identify the case that they're saying they
23 didn't know about the day before as a related matter.
24 They identify both Collision v. Nokia and Collision v.
25 Ericsson. So, you know, it's the day before Christmas

1 Eve. I'm not going to get into disingenuous, I'm not
2 going to get into any of that stuff.

3 They knew about it. And they know right
4 now they knew about it and they're not being truthful.
5 That's issue number one.

6 Issue number 2 is at least as I understand
7 it right now they still want additional limiting on
8 this means-plus-function issue. As of Friday they had
9 told us that they were going to tell you they didn't
10 want a briefing on the issue because they were going to
11 agree that it's means-plus-function has the same
12 construction that we have.

13 Now they're saying they do want additional
14 briefing on what, I still don't know. But I do want to
15 address the notion that they're just out of the
16 kindness of their hearts agreeing to our claim
17 construction. That is not true, your Honors.

18 They proposed the means-plus-function
19 claim construction. That is throughout our preliminary
20 response. They proposed that on November 26th when
21 they needed to identify their proposed constructions.

22 That construction for this term for
23 multi-user detection decision unit is identical to the
24 one that the Eastern District Texas earlier case
25 issued. It's identical to the one that's in our

1 preliminary response. And it's identical to the one
2 that they just agreed to in a joint submission to the
3 court is an agreed construction.

4 So there is no claim construction issue.
5 This is their own proposal. It's one that the parties
6 have agreed to. But it's also a proposal in an earlier
7 construction from again Judge Gilstrap the Eastern
8 District of Texas, the exact court they're in front of
9 right now that was issued almost 2 years they filed
10 their petition.

11 And I haven't heard an actual reasonable
12 reason why that petition didn't address that claim
13 construction. And so why do they want additional
14 briefing here? If it's to address that claim
15 construction, they knew about it. And they should have
16 addressed it in the petition.

17 And if they're not going to address it, if
18 the notion is just, oh we agreed to that claim
19 construction, then they should be stuck with the
20 petition that they filed. Because they could have and
21 should have addressed what they're trying to do now in
22 this conference which is tell you, oh no, we actually
23 did address that claim construction. We actually did
24 provide you with a basis for finding that that claim
25 construction is met in the prior art.

1 That all should have been in the petition.
2 It wasn't. So I don't know what the good faith basis
3 is here right now. And I don't know what the
4 additional briefing is they're asking for. Because
5 again if it's to say exactly that claim construction
6 that we should have addressed and didn't bother to
7 address, here's how we met it in the earlier petition
8 again they should have argued that already.

9 That's all I have to say on that, your
10 Honors, unless obviously welcome to answer any
11 questions you have on what I said.

12 THE COURT: Thank you, Mr. Meunier. I have 1 or
13 2 questions and then I'll let --

14 MR. MEUNIER: Sure.

15 THE COURT: -- I'll let petitioner have a turn.
16 I guess my first question is or observation is my
17 understanding of what petitioner is asking for here is
18 a short brief, they said like a page or two maybe where
19 my understanding was they intended to essentially
20 connect the dots between this claim construction and
21 the evidence and argument that's already in their
22 petition to point out how the, they believe that the
23 prior art references, renders this, keeps this
24 limitation or renders it -- I don't know which one,
25 that was my understanding of what their current ask is.

1 And I'm sure Mr. Glass can correct me if my
2 understanding is off in a moment.

3 I guess my second question for you, Mr.
4 Meunier, is I heard a fair amount about your, your
5 views of lack of good cause from petitioner. I was
6 wondering if you had any particular prejudice to your,
7 your side that you could demonstrate if we were to
8 allow an additional brief on this matter?

9 MR. MEUNIER: Certainly, your Honors. The
10 argument that they want to make should have been in the
11 petition. And it should have been something that we
12 were able to consider for 3 months before we filed our
13 preliminary response.

14 And if they were going to take those
15 positions we might have taken different positions or
16 focused on different things in our preliminary
17 response. They chose intentionally not to address this
18 claim construction. And so that's the prejudice to us.
19 And I still haven't heard a good faith and good cause
20 basis for why they didn't address it earlier. Does
21 that answer your question?

22 THE COURT: Okay thank you. It does, thank you.
23 Mr. Glass?

24 MR. GLASS: Yes.

25 THE COURT: A couple of questions and then I'll

1 open the floor if you have responses to other points
2 that Mr. Meunier has made.

3 MR. GLASS: Sure.

4 THE COURT: This 1248 petition that patent owner
5 referenced, is that a petition, is that, they say that
6 petition mentions this previous Nokia litigation. Do
7 you know if that's right?

8 MR. GLASS: So that is, that is correct. And so
9 that petition we filed, as counsel said, the day after
10 we filed the 1247. We did. And I should, maybe should
11 have limited my initial response we were not aware of
12 the claim construction where we did cite to the POPR in
13 that case and we did discuss that POPR, but not the
14 claim construction, not the claim construction order.

15 And I'll point out, your Honors, there,
16 I'll set the anger and vitriol aside from counsel. It
17 is palpable. But why would I not have addressed this
18 claim construction order? It is so distinguishable
19 based on how we've mapped these claims.

20 Again claim 3 is expressly the very
21 structure that they identified for claim 1. This is
22 all noise about nothing because whether it's 146 or not
23 doesn't impact this proceeding. I'll also note counsel
24 hasn't addressed the fact, mandatory disclosures
25 requires a party to identify any matter that would

1 affect or be affected by the decision here.

2 They didn't identify this case and they
3 were, their client was involved in it. I spoke with
4 Mr. Amendt last week and I'm sure he'll agree with me,
5 I don't think counsel is going to dispute this, his
6 exact words to me were, we were not aware of this case
7 until running up to the POPR.

8 So we all, this is a very small bar. And
9 we are on the record here. I take offense to the
10 language and the vitriol launched at us. There's -- I
11 am telling your Honors as a practitioner of this court,
12 as the head of our post grant group at Quinn Emanuel I
13 was not aware of this decision period. So I'll set
14 that aside.

15 On the issue of prejudice again they've
16 already addressed this issue. Claim 3 expressly
17 requires the structure they identify in their
18 construction. So there is no prejudice here especially
19 given the amount of time we have left in this, in the
20 proceeding before preliminary, before the institution
21 decision is due.

22 I'll also note, your Honors, that in line
23 with the federal circuit Axonics decisions, the
24 Parkervision decision, the Ericsson decisions where
25 claim constructions are brought up in the POPR for the

1 first time, the federal circuit has expressly found a
2 reversed PTAB decision that did not afford an
3 opportunity to respond.

4 So this is in line with the federal
5 circuit. It happens all the time. The patent owner
6 raises a new construction here that we were aware of
7 the prior construction unsubstantiated and they weren't
8 even aware of it.

9 So I, there's no prejudice here to file a
10 1 page brief. And I will, I'm sorry I, not to ramble,
11 but I will address your position. You are absolutely
12 correct I am not going to file a paper saying here's
13 additional disclosures in the prior art that render
14 this claim unpatentable.

15 All I would like to do is connect the dots
16 exactly the way I've been saying here that claim 1
17 identifies the specific structure that they identified
18 for, I'm sorry claim 3 identifies the specific
19 structure that they identify for claim 1.

20 And the mapping to those 2 claims are
21 identical. So even if your Honors adopt that 112-6
22 construction, it's of no matter. It makes no
23 difference here. So this is again a lot of noise, a
24 lot of vitriol, a lot of accusations frankly on a
25 public record for no reason. Thank you, your Honor.

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1 THE COURT: Okay. I'm sorry, could whoever just
2 spoke try that again.

3 MR. GLASS: I simply said does your Honor have
4 any further questions? I'm sorry.

5 THE COURT: Not right now. Let me put you guys
6 on a brief hold while I consult with my colleague.

7

8 (A discussion is held off the record)

9

10 THE COURT: Okay we're back on the record. This
11 is Judge Daybell again. We're going to go ahead and
12 authorize the filing of a short reply. We're going to
13 authorize 2 pages for the petitioner's reply and of
14 course a 2 page sur-reply from the patent owner.

15 The reply will be due January 6th. The
16 sur-reply will be due January 21st. This gives you
17 guys each 2 weeks with one day for the holiday on
18 Martin Luther King day.

19 Petitioner can you please file the
20 transcript of this call with the Board as an exhibit by
21 December 30th or earlier if the transcript is final
22 earlier that will help us when we draft our order.

23 An order will be forthcoming to
24 memorialize all of this. But the parties can proceed
25 on the basis of the record on the call. In light of

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1 the holidays our written order might take us a few days
2 longer to get out, but we'll have one.

3 Do the parties have any further questions
4 or things they'd like us to address at this point?
5 I'll start with petitioner.

6 MR. GLASS: No your Honor, thank you. We
7 appreciate it.

8 THE COURT: Okay and patent owner?

9 MR. MEUNIER: No nothing else from us, your
10 Honor.

11 THE COURT: Okay thank you. I just want to
12 close with a final comment on the timing of the
13 petitioner's request. It was like slightly over a
14 month after the POPR was filed which was a little bit
15 long for us.

16 I understand there was the Thanksgiving
17 holiday and given the petitioner's, who petitioner's
18 client is, the turmoil in South Korea may have impacted
19 things a bit. But if the parties could have any
20 further requests they need us to take a look at if you
21 could do your best to get them in a little bit quicker
22 that will help us all keep to our schedules.

23 MR. GLASS: Understood and apologize, your
24 Honor.

25 THE COURT: Thank you. With that, hearing no

1 other issues this hearing is done. Thank you all for
2 your time.

3 MR. GLASS: Thank you, your Honor.

4 MR. MEUNIER: Thank you.

5

6 (The proceedings concluded at 1:32 p.m.)

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2 UNITED STATES PATENT AND TRADEMARK OFFICE
3 BEFORE THE PATENT AND APPEAL BOARD
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5 SAMSUNG ELECTRONICS AMERICA,)
INC., SAMSUNG ELECTRONICS CO.)CASE NO.
6 LTD.,)IPR2025-00011
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7 PETITIONERS,)
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8 VS.)
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9 COLLISION COMMUNICATIONS, INC.,)
)
10 PATENT OWNER.)
_____)

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12 I, TECKLA CLAY, CSR NO. 13125, OFFICIAL
13 REPORTER OF THE SUPERIOR COURT OF THE STATE OF
14 CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
15 CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 23
16 COMPRISE A FULL, TRUE AND CORRECT REMOTE TRANSCRIPT OF
17 THE PROCEEDINGS TAKEN IN THE ABOVE ENTITLED
18 CAUSE ON DECEMBER 23, 2024 THIS 27TH DAY OF DECEMBER,
19 2024.

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21 TECKLA CLAY, CSR NO. 13125
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