

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SILICON LABORATORIES, INC.
Petitioner

v.

CRESTA TECHNOLOGY CORPORATION
Patent Owner

CASE IPR2015-00626
Patent 7,265,792

TRANSCRIPT OF APRIL 1, 2016 TELEPHONIC PROCEEDINGS

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Case No. IPR2015-00626
U.S. Patent 7,265,792

Dated: April 13, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on April 13, 2016, a copy of the foregoing documents was served by electronic mail, as agreed to by the parties, upon the following:

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1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3 - - -
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6 SILICON LABORATORIES, INC.,) Case IPR2015-00626
7 Petitioner,) Patent No. 7,265,792
8 vs.)
9 CRESTA TECHNOLOGY CORPORATION,)
10 Patent Owner.)
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15 TRANSCRIPT OF TELEPHONIC HEARING

16 FRIDAY, APRIL 1, 2016

17 12:30 P.M.

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23 Reported by:

24 TERI J. NELSON

25 CSR NO. 7682

1 Reporter's Transcript of Telephonic Hearing,
2 Friday, April 1, 2016, 12:30 P.M., before
3 Teri J. Nelson, CSR No. 7682, pursuant to Notice.

4

5 APPEARANCES (All Telephonic):

6

7 ADMINISTRATIVE PATENT JUDGES:

8 JUDGE PHILLIP J. KAUFFMAN

9 JUDGE PATRICK M. BOUCHER

10

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1 APPEARANCES (All Telephonic)(Continued):

2

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12 ALSO PRESENT:

13 Mihai Murgulescu, Cresta Technology Corporation

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1 FRIDAY, APRIL 1, 2016

2 12:30 P.M.

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4 JUDGE KAUFFMAN: Good afternoon.

5 This is Judge Kauffman.

6 Ms. Nelson, are you with us on this call as
7 well?

8 THE REPORTER: I certainly am, Your Honor.

9 JUDGE KAUFFMAN: Okay.

10 I forgot to tell you.

11 Judge Boucher is on the line.

12 I forgot to tell you the spelling of his name.

13 It's B-o-u-c-h-e-r.

14 THE REPORTER: Thank you.

15 JUDGE KAUFFMAN: I assume that Mr. Fleming,
16 Mr. Haber and Mr. Murgulescu are on the line?

17 MR. FLEMING: Your Honor, this is Mike Fleming.
18 Ben and I are on the line.

19 I'm not sure if Mihai is on the line or not.

20 MR. MURGULESCU: Actually, I am, Your Honor.

21 JUDGE KAUFFMAN: Okay. Great.

22 Thank you.

23 And who's on the line for Petitioner, please?

24 MR. AYERS: Peter Ayers, Your Honor.

25 JUDGE KAUFFMAN: Hello, Mr. Ayers.

1 MR. AYERS: Hello.

2 JUDGE KAUFFMAN: I think I can probably
3 summarize at least what the Patent Owner knows and what
4 the Office knows at this point, and then we'll hear from
5 you, Mr. Ayers, if that's all right.

6 Ms. Nelson, do you have any questions for me
7 before I continue?

8 THE REPORTER: No, I don't think so, Your Honor.

9 JUDGE KAUFFMAN: Okay.

10 I understand from Mr. Fleming that they think
11 they may have an answer as early as next week about
12 remaining as counsel, but they do not have an answer at
13 this time.

14 The Patent Office will be working with another
15 one of the legal offices at our office, and then I guess
16 the last time we did this, they worked with the DOJ
17 representative, and those folks then contact the
18 Bankruptcy Court to see, you know, what, if anything, is
19 the next step.

20 And my expectation would be that if the stay is
21 lifted in a timely manner, we would pick the schedule up
22 where we left off, meaning that we'd finish the due dates
23 that are there, and we'd set the hearing at roughly the
24 same period of time from where we left off and that we'd
25 finish the proceeding in that way. A lot of ifs in that

1 expectation, but that would be my guess at this time.

2 So Mr. Fleming, anything you'd like to add to
3 that?

4 MR. FLEMING: No, Your Honor.

5 That was a super summary.

6 Thank you.

7 JUDGE KAUFFMAN: And Mr. Ayers, how about you?
8 What would you like to add to that?

9 MR. AYERS: Well, I guess I'm just --

10 Was there a prior -- a call prior to this one
11 with -- in the MaxLinear case or something?

12 I'm just curious how --

13 JUDGE KAUFFMAN: Yes.

14 MR. AYERS: -- you were informed of the status.
15 I thought that was the purpose of this call.

16 JUDGE KAUFFMAN: You guessed right, Mr. Ayers.
17 We just had a call with Patent Owner and of
18 course the other set of Petitioners --

19 MR. AYERS: Oh.

20 JUDGE KAUFFMAN: -- but I wanted to do both
21 today.

22 MR. AYERS: I -- I appreciate that.

23 I guess just for my benefit, is -- is
24 Mr. Fleming trying to withdraw and is unable to
25 because --

1 Or I guess I'm not clear what -- why he's unable
2 to continue as counsel, why that's the gating factor
3 here.

4 JUDGE KAUFFMAN: Well, I don't -- I'll let
5 Mr. Fleming answer that, but I don't think that that's
6 the gating factor.

7 I think the gating factor is the stay for the
8 bankruptcy and what effect that has on these proceedings,
9 but tied into that is Mr. Fleming's representation, and
10 I'll let him add to that.

11 MR. FLEMING: Yes, Your Honor.

12 Yeah.

13 Peter, the situation is that we need to be
14 appointed by the Trustee to be special counsel to the
15 Trustee because of the Chapter 7 filing, and there was a
16 problem because we had an inherent conflict that had to
17 be resolved and -- before we could do that since we were
18 listed in the paperwork as a creditor.

19 We have been working through that, and I think
20 we're very close to having that all solved, and -- and
21 then hopefully, we can -- by next week, we'll be able to
22 work with the Trustee to motion the court to appoint us
23 as special counsel.

24 So that's kind of the long and short of it.

25 MR. AYERS: Thank you for that, Mike.

1 I guess kind of on a related note, I don't know
2 if the Board is aware, but another counsel, Lando &
3 Anastasi, this -- this week filed a brief on behalf of
4 Cresta Technology in the Federal Circuit on the appeals
5 related to the Phase I inter partes review on the '585
6 and the '792 patents.

7 I guess I'm just curious how it is that they
8 have authorization to move forward, and I understand
9 they, too, are listed as a creditor, Mr. Fleming, and
10 what -- how you think -- why you think you're differently
11 situated than them.

12 MR. FLEMING: I can't really speak for the other
13 reference, but we had -- we had our bankruptcy folks work
14 with us to contact the Trustee, and this is our
15 understanding of the proper path for us to move forward
16 on.

17 JUDGE KAUFFMAN: You know, Mr. Ayers,
18 Judge Boucher saw that as well and told me about it, and
19 I -- I also wondered what was going on there, although
20 I -- I agree with Mr. Fleming. He, you know, wouldn't
21 know exactly why they're still proceeding.

22 I'm not sure what that means for us.

23 MR. AYERS: Yeah, I -- I understand.

24 I just -- I'm trying to get my head wrapped
25 around this as well.

1 I think -- I guess I'd also like Mr. Fleming to
2 speak to another point because it's been a question
3 that's raised that there might be another real party in
4 interest, and that is, there -- there's a secured
5 creditor out there, Fortress, who has taken a security
6 interest in the patent, and there's some concern that
7 they are the ones funding at least the appeal in -- in
8 that case if not the -- the prosecution or -- or the --
9 the inter partes review.

10 I guess I want to make sure that the record's
11 clear because there's been no update on the real party in
12 interest status if that is indeed the case, that that's,
13 you know, accurately recorded in the record.

14 I'm wondering if Mr. Fleming can speak to that
15 point as well.

16 MR. FLEMING: Your Honor, would you like me to
17 speak to that?

18 JUDGE KAUFFMAN: Please, yes, if you're willing
19 to, yes.

20 MR. FLEMING: We -- the under- -- it might be
21 that there will be a new Patent Owner, and if that is the
22 case, the real party in interest would be updated, but we
23 have taken no direction for -- and there have been not a
24 party in any way as far as directing us on how to proceed
25 with these IPRs, and so they're simply the folks that

1 loaned Cresta the money, and so they're -- they're in the
2 process, I'm sure, of wanting to see about recovering
3 whatever they can for the loans that they extended, and
4 if they do that, and if it means that the title is
5 transferred to them, then certainly they'll update that
6 they're a real party in interest, but right now, the
7 asset is sitting with the Trustee is my understanding.

8 MR. AYERS: And -- and just to be clear,
9 Fortress is not funding in any way, shape or form the
10 prosecution of the inter partes reviews?

11 MR. FLEMING: They could be funding it through
12 this loan, I -- but I don't think that that's a situation
13 that concerns me as far as directing me on how to -- or
14 Irell on how to proceed with the IPR.

15 MR. AYERS: Okay. Thank you for that
16 clarification.

17 JUDGE KAUFFMAN: And Mr. Ayers, this is
18 Judge Kauffman again.

19 I want to ask you what I asked MaxLinear, and
20 that's if your desire is to complete these proceedings.

21 MR. AYERS: Absolutely, Your Honor --

22 JUDGE KAUFFMAN: Okay. And we don't know yet --

23 MR. AYERS: -- move forward, yeah, and just --
24 and we're prepared at a moment's notice to go forward
25 with the hearings as scheduled, so if and when we get

1 some clarity on that, we are prepared to -- to move
2 forward on those dates as they are currently scheduled,
3 if in fact that comes to pass.

4 JUDGE KAUFFMAN: Our order for suspending the
5 deadlines does include the hearings, and you know, I'm
6 guessing at this point, I will do what I can at my end,
7 but I -- I think that it's unlikely that this will be
8 resolved in time to have the hearings on -- as scheduled
9 on -- I can't remember if this one's the 11th or the
10 12th, but my expectation --

11 MR. AYERS: No.

12 I -- I appreciate -- I'm sorry, Your Honor.

13 I appreciate that.

14 I just wanted the Board to be aware that, you
15 know, we're ready to move forward at any time and at any
16 pace, so I just wanted to make the Board aware of that.

17 JUDGE KAUFFMAN: Okay. My expectation would be,
18 you know, if we ended up with a three-week wait out of
19 this that we would pick the schedule back up, and we
20 would set the hearings for three weeks out, and we'd go
21 from there. I mean I have to look at the due dates to
22 know exactly how it would fall out, but roughly we would
23 pick up the schedule where we suspended it.

24 MR. AYERS: Okay. Thank you, Your Honor.

25 JUDGE KAUFFMAN: So Mr. Fleming, anything else

1 you'd like to add about that?

2 MR. FLEMING: No, Your Honor.

3 JUDGE KAUFFMAN: And you will file the
4 transcript in this set of cases as well?

5 MR. FLEMING: Yes, Your Honor.

6 JUDGE KAUFFMAN: Okay. Thank you.

7 I expect to do just a short order that -- that
8 says a very quick summary of what we did today 'cause
9 most of it will -- I mean it's in the transcript, so
10 there's no point in really doing a long order, and we're
11 not really changing anything, it's only going to say the
12 suspension's still in effect, so --

13 Mr. Ayers, anything --

14 MR. FLEMING: Do you want --

15 JUDGE KAUFFMAN: Okay.

16 I'm sorry.

17 I spoke over someone.

18 MR. FLEMING: Go ahead, Your Honor.

19 Sorry.

20 JUDGE KAUFFMAN: Okay.

21 Ms. Nelson, do you have any questions for me,
22 any spellings you need, anything like that?

23 THE REPORTER: Let me just check.

24 There was just one thing that you said there.

25 Hold on.

1 Let me just quickly read to you. It was: "If
2 we ended up with a three-week wait out of this that we
3 would pick the schedule back up and we would set the
4 hearings for three weeks out, and we'd go from there. I
5 mean I have to look at the" -- and it sounded like
6 something like "DU 8s" or something "to know exactly how
7 it would fall out."

8 JUDGE KAUFFMAN: Sure.

9 THE REPORTER: I'm not sure I heard that term.

10 JUDGE KAUFFMAN: The term is "due dates" --

11 THE REPORTER: "Due dates."

12 I'm so sorry.

13 JUDGE KAUFFMAN: -- and that's from our
14 scheduling order.

15 THE REPORTER: I'm so sorry.

16 It just kind of came out --

17 JUDGE KAUFFMAN: You don't need to be sorry.
18 That's why we check.

19 THE REPORTER: That was it.

20 JUDGE KAUFFMAN: Okay. Great.

21 And Mr. Fleming, anything else?

22 MR. FLEMING: I just want to make clear to
23 Your Honor that whenever there is a change of status as
24 far as the Patent Owner and whoever is controlling the
25 IPR, we will duly file the notices as required.

1 JUDGE KAUFFMAN: All right. I am confident that
2 you will do what you're supposed to do when you actually
3 know.

4 And Mr. Ayers, anything else?

5 MR. AYERS: No, Your Honor.

6 JUDGE KAUFFMAN: Okay. Well, thank you for
7 having a call today.

8 My guess would be that either next week or the
9 week after we'll have another call just to see where we
10 are and go from there.

11 MR. AYERS: Very good.

12 MR. FLEMING: Okay.

13 MR. AYERS: Thank you, Your Honor.

14 MR. FLEMING: Thank you, Your Honor.

15 JUDGE KAUFFMAN: Thanks very much.

16 (Proceedings adjourned at 12:43 P.M.)
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1 STATE OF CALIFORNIA)

2) ss.

3 COUNTY OF LOS ANGELES)

4

5 I, TERI J. NELSON, CSR NO. 7682, in and for the
6 State of California, do hereby certify:

7 That said proceedings were recorded
8 stenographically by me at the time and place therein
9 named, and thereafter transcribed, and the same is a
10 true, correct and complete transcript of said
11 proceedings.

12 I further certify that I am not interested in
13 the event of the action.

14 WITNESS MY HAND this 12th day of April, 2016.

15

16

17

18

A handwritten signature in dark ink, appearing to read 'Teri J. Nelson', with a long horizontal flourish extending to the right.

19

TERI J. NELSON

20

CSR No. 7682

21

22

23

24

25

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7:12 8:23 10:23

you'd

6:2 12:1

you're

8:10 9:18