

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 19, 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: May 6, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on May 6, 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
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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.)
11 - - - - -)

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15 TRANSCRIPT OF TELEPHONIC HEARING

16 TUESDAY, APRIL 19, 2016

17 12:00 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 Tuesday, April 19, 2016, 12:00 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 JUDGE GREGG I. ANDERSON

11

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1 APPEARANCES (All Telephonic)(Continued):

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12 FOR PETITIONER SILICON LABORATORIES, INC.:

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19

20 ALSO PRESENT:

21 Mihai Murgulescu, Cresta Technology Corporation

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1 TUESDAY, APRIL 19, 2016

2 12:00 P.M.

3

4 JUDGE KAUFFMAN: Good afternoon.

5 This is Judge Kauffman.

6 I hear we have a court reporter on the line.

7 Is there anything you need from me before we get
8 started?

9 THE REPORTER: No, sir.

10 Thank you.

11 JUDGE KAUFFMAN: Okay. Thank you.

12 My name is Judge Kauffman, K-a-u-f-f-m-a-n.

13 With me is Judge Boucher, B-o-u-c-h-e-r, and
14 Judge Anderson, A-n-d-e-r-s-o-n.

15 I hear that there are three folks on the line
16 from Cresta.

17 Could you just confirm that for me?

18 MR. FLEMING: Hi, Judge Kauffman.

19 That's correct.

20 This is Mike Fleming and Ben Haber.

21 JUDGE KAUFFMAN: I thought I heard
22 Mr. Murgulescu earlier.

23 MR. MURGULESCU: Yes, Your Honor. I am also on
24 the line.

25 JUDGE KAUFFMAN: Okay. Great.

1 Do I have anyone on the line from MaxLinear?

2 MR. SCHODDE: Good afternoon, Your Honor.

3 This is Greg Schodde, and with me is Tom
4 Wimbiscus.

5 JUDGE KAUFFMAN: Good afternoon.

6 And do I have anyone on the line for Silicon
7 Labs?

8 MR. SHUMAKER: Good afternoon, Your Honor.

9 This is John Shumaker for Silicon Labs.

10 JUDGE KAUFFMAN: Thank you, Mr. Shumaker.

11 And I guess I'd like to start with you,
12 Mr. Fleming, or whoever is speaking for Cresta.

13 I wonder if you can give us an update on
14 anything you know about the bankruptcy proceedings.

15 MR. FLEMING: Yes, Your Honor.

16 As far as right now, there hasn't been an
17 appointment to represent the Trustee in the IPR matter.

18 And I did talk with the counsel for the Trustee,
19 and he -- he -- I just talked to him about a half hour
20 ago.

21 He or I would suggest that maybe you or the
22 panel contact him and that he can give you the best
23 answers to what you're asking for.

24 Can I give you his name?

25 JUDGE KAUFFMAN: That would be great.

1 It won't be me contacting that person, but I'll
2 pass it to the person who will do that.

3 MR. FLEMING: Okay. Great.

4 His name is Gregg Kleiner, K-l-e-i-n-e-r, and he
5 can be reached at 415-356-4602. Again, it's
6 415-356-4602.

7 JUDGE KAUFFMAN: And Mr. Kleiner --

8 And Kleiner is spelled K-l-e-i-n-e-r?

9 MR. FLEMING: Yes.

10 JUDGE KAUFFMAN: Okay. Great.

11 And was there anything else you learned from
12 that interaction, Mr. Fleming?

13 MR. FLEMING: He did represent that things could
14 be sorted out here shortly, but he instructed me not to
15 necessarily explain anything more than that.

16 He would rather that you talk to him directly.

17 JUDGE KAUFFMAN: Okay. I understand.

18 And Mr. Schodde, and for MaxLinear, do you have
19 anything that you can add?

20 MR. SCHODDE: No new information other than we
21 haven't made any motions or appearances in the
22 proceedings.

23 I did note on the docket that the entity that we
24 think is the real party in interest did appear, so they
25 have a lawyer who's appeared who was received in the

1 bankruptcy court on their behalf, and I have that contact
2 information as well.

3 And by "real party in interest," I mean the
4 creditor that's got the secured interest in the patents.

5 JUDGE KAUFFMAN: Okay.

6 MR. FLEMING: Your Honor, could I clarify what
7 he said?

8 JUDGE KAUFFMAN: Please.

9 MR. FLEMING: I think what he is saying is that
10 the potential Patent Owner is who he's talking about, but
11 right now, the -- the ownership of the patent-in-suit is
12 with the Trustee, so that's why there is an automatic
13 stay.

14 JUDGE KAUFFMAN: And Mr. Fleming, I apologize if
15 you were telling me you couldn't say anything else, and
16 so maybe you can't or don't want to answer this, but are
17 you expecting to withdraw?

18 MR. FLEMING: No, Your Honor.

19 I can definitely say that if the new Patent
20 Owner, which is what is expected to happen, becomes the
21 Patent Owner, then we should be able to have a new
22 engagement letter and proceed with the IPR.

23 JUDGE KAUFFMAN: Okay.

24 MR. FLEMING: And at that time, I will
25 definitely file a new deal part.

1 JUDGE KAUFFMAN: Okay.

2 MR. SCHODDE: And Your Honor, this is
3 Greg Schodde.

4 That's to my point.

5 Although Cresta is still listed as the Patent,
6 quote-unquote, "Owner," it's kind of like owning a house
7 that's worth hundred grand that the bank's got \$150,000
8 mortgage on.

9 They've listed the patents at no stated value,
10 the note is for 2 to \$3 million, and there's other claims
11 I think up to 18 million.

12 Cresta has no coverable interest in this at this
13 point.

14 The real party in interest in our view is the
15 secured party, which is this funding entity, Fortress,
16 through their subsidiary DBD -- EBD, rather.

17 JUDGE KAUFFMAN: Okay.

18 All right. Mr. Shumaker, is there anything from
19 Silicon Labs?

20 Do you have anything that you can update us on?

21 MR. SHUMAKER: Yes, Your Honor.

22 We have approached the Bankruptcy Trustee about
23 stipulating to lift the stay in both the Federal Circuit
24 appeal and the Phase II IPRs, and we intend to file a
25 motion to lift the stay with the Bankruptcy Court, but

1 that's I guess as much of an update as I can give you at
2 this time.

3 JUDGE KAUFFMAN: And when you say "intend," do
4 you have a timeline at this time?

5 MR. SHUMAKER: I don't know the exact timeline.

6 I just know there's negotiations going on with
7 the Trustee, and I believe there is a hearing set either
8 at the end of April or around the first week of May, but
9 I can't -- I'm not exactly sure of those dates, but
10 that's the dates that I've seen so far.

11 JUDGE KAUFFMAN: Thank you, Mr. Shumaker.

12 And Mr. Fleming, is there anything else that you
13 want to add?

14 MR. FLEMING: No, Your Honor.

15 I recommend that you go back and talk to the
16 attorney for the Trustee definitely.

17 JUDGE KAUFFMAN: Okay. Let me just check with
18 my panel and see if there's anything else they'd like to
19 me to ask.

20 (Pause in proceedings.)

21 JUDGE KAUFFMAN: And Teri, I'm sorry, I did not
22 catch your last name, but is there any spellings or
23 anything you need from me, anything you missed?

24 THE REPORTER: Yes, Your Honor.

25 It's Teri Nelson with DTI.

1 JUDGE KAUFFMAN: Thank you.

2 THE REPORTER: And I think I've got everything
3 today.

4 JUDGE KAUFFMAN: Okay.

5 I do want to tell all the parties the Board is
6 evaluating what the stay means.

7 Right now we believe that under 11 USC 362 B4,
8 our proceeding is exempt from the stay. That requires
9 some coordination with the Department of Justice that we
10 are still waiting on to make sure we're in agreement, but
11 it looks to me to finish these proceedings on time that
12 we would look to restart the clock by April 29th, and
13 that would put the hearing about two and a half weeks
14 out, so we would be looking at around May 19th and
15 May 20th for the oral hearings and again at the Rocky
16 Mountain Regional Office, although we can talk about that
17 if that's not going to work for any of the parties.

18 Again, that's tentative, but I do want you to
19 know that that's what we're looking at and evaluating.

20 I appreciate the information you gave,
21 Mr. Fleming, and I will pass that to the person who's
22 working that for the agency to see what we can do there.

23 Does that raise any questions from anyone?

24 MR. SHUMAKER: This is John Shumaker from
25 Silicon Labs.

1 Regarding the potential scheduling, we have an
2 IPR hearing in Washington, D.C. on May 18th on another
3 case, so I just wanted to let you know about that data
4 point since you suggested May 19th and 20th for the oral
5 hearings in the Rocky Mountain Regional Office for this
6 case.

7 JUDGE KAUFFMAN: I see.

8 Okay. When we get a little closer to that, we
9 can discuss that.

10 I do appreciate that information.

11 MR. SHUMAKER: Sure.

12 JUDGE KAUFFMAN: And does anyone else have a
13 question or comment that they'd like to make?

14 Mr. Fleming?

15 MR. FLEMING: I understand the first thing that
16 it would be exempt -- that this proceeding would be
17 exempt and that you're thinking about starting April 29th
18 the clock, and that would start with 535?

19 JUDGE KAUFFMAN: My recollection is we were two
20 and a half days -- or two and a half weeks from oral
21 hearing with due dates 5 and 6 still left in all four of
22 the proceedings, and so that's where we would pick up.

23 And if we do that, the order would include when
24 new due date 5 is and when the new due date 6, when the
25 oral hearing would be, and then we can modify those if we

1 need to.

2 Does that answer your question?

3 MR. FLEMING: Yes. Exactly.

4 JUDGE KAUFFMAN: Thank you, Mr. Fleming.

5 And Mr. Schodde, any questions or comments from
6 you?

7 MR. SCHODDE: No, Your Honor.

8 That all sounds very interesting.

9 I would expect that if we do get going again,
10 though, that the real party in interest should be
11 updated.

12 JUDGE KAUFFMAN: I do understand your position
13 on that, and I have been assured by Mr. Fleming that they
14 will update that when they believe that it is necessary
15 to do so.

16 So I hear what you're saying, and I'm -- I don't
17 think there's anything to do right now.

18 Do you think that there is?

19 MR. SCHODDE: Well, I notice you're moving under
20 the Government Regulatory Exemption.

21 Our -- our belief is that the stay should also
22 be lifted under B2, which I think is -- if I've got that
23 right. That's the one that says if the Patent Owner --
24 or the -- the debtor has no equity in the property, the
25 stay can be lifted at the proceedings regarding that

1 property, and that brings it -- which circulates back to
2 the real party in interest being the lender who is the
3 secured party who's got the note. Ultimately, they're
4 the one who's going to have to appear and defend the IPR
5 anyway. It's an alternate theory under which the stay
6 was going to be lifted, so if the Patent Office was going
7 to pursue that motion, I think it would be -- I'm not
8 advising the government, but if we were making that
9 motion, we would also be moving under that exemption,
10 Exemption 362, as well.

11 JUDGE KAUFFMAN: I appreciate that information.

12 I'm not sure if that provision is a provision
13 that we could say we qualify for or is a provision that
14 the Bankruptcy Court would have to rule on. We'll have
15 to look at that.

16 And I guess my last question for the parties,
17 unless this triggers someone to say something else, is:
18 Are there any settlement negotiations underway?

19 Mr. Schodde?

20 MR. SCHODDE: Not for us, Your Honor.

21 JUDGE KAUFFMAN: And Mr. Shumaker?

22 MR. SHUMAKER: Not that I'm aware of.

23 JUDGE KAUFFMAN: And I assume that makes you a
24 "no" as well, Mr. Fleming.

25 MR. FLEMING: Your Honor, I'm right now in

1 limbo, I don't really represent anyone, so I haven't been
2 privy to such information.

3 JUDGE KAUFFMAN: Okay. I appreciate that
4 information.

5 Who does the court reporter work for?

6 THE REPORTER: Well, Your Honor, I contract
7 through DTI.

8 MR. FLEMING: Your Honor, we provided the court
9 reporter.

10 JUDGE KAUFFMAN: Okay. Thank you, Mr. Fleming.

11 Do you have an expectation of when that
12 transcript would be filed?

13 MR. FLEMING: We can ask the court reporter.

14 I'd assume a couple weeks from now is when we'd
15 have a copy.

16 THE REPORTER: I'm sorry.

17 Our normal turnaround is two weeks, and then I
18 can work with Mr. Fleming on whether they need it sooner
19 than that.

20 JUDGE KAUFFMAN: Okay. I'm just inquiring.

21 I'm not -- that part is between you and
22 Mr. Fleming, but I appreciate the information.

23 And Mr. Fleming, your comment makes me -- I feel
24 like I kind of asked this, and so maybe you can't tell me
25 more, but when you say you're in limbo, but there isn't

1 yet a motion to withdraw in the proceedings, then it
2 makes me unsure what your status is in the proceedings,
3 and maybe that's the answer, you're unsure what your
4 status is, but can you elaborate on that?

5 MR. FLEMING: Your Honor, we were hoping that we
6 could get an appointment as a special counsel to the
7 Trustee so that we could be representing the Trustee and
8 Cresta and file for bankruptcy, and that way we would be,
9 you know, properly engaged, and we're still waiting on
10 that determination, so I think this is moving a lot
11 slower than I hoped for.

12 JUDGE KAUFFMAN: Okay. Thank you for that
13 information.

14 I don't have anything further unless the parties
15 have any other questions for us.

16 Mr. Schodde?

17 MR. SCHODDE: Nothing further for MaxLinear,
18 Your Honor.

19 Thank you.

20 JUDGE KAUFFMAN: Thank you.

21 Mr. Shumaker?

22 MR. SHUMAKER: Nothing further for Silicon Labs.
23 Thank you.

24 JUDGE KAUFFMAN: Thank you.

25 Mr. Fleming?

1 MR. FLEMING: No, Your Honor.

2 Thank you.

3 JUDGE KAUFFMAN: Great.

4 Thank you all for making time for this call
5 today.

6 I appreciate the update and information.

7 Thank you, Ms. Nelson.

8 And that ends our call for today.

9 MR. FLEMING: Thank you.

10 (Proceedings adjourned at 12:16 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 2nd day of May, 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

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