

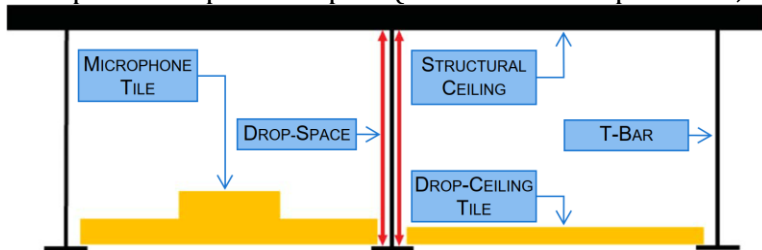
## The Internet Short-Circuits the Narrative

*Shure Incorporated v. ClearOne, Inc., Case No. 17-cv-03078 (N.D. Ill. Sep. 1, 2020)*

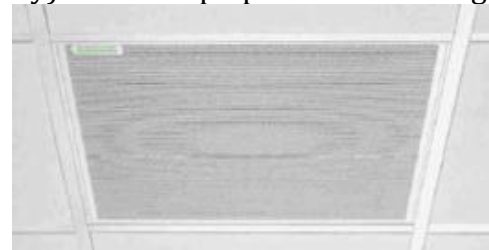
By: Lisa Holubar & Ifiti Zaim | September 14, 2020

On September 1, 2020, the Northern District of Illinois held microphone manufacturer Shure in contempt for selling a beam-forming microphone that was no more than colorably different than the prior Shure product preliminarily enjoined for patent infringement in 2019. Shure argued that its redesign was non-infringing. But ClearOne relied on posts and comments from social media to show that Shure’s redesign allowed integrators<sup>1</sup> to install the microphone in an infringing way.

ClearOne’s patent claimed a microphone fitted in the drop-ceiling of a conference room, with the microphone disposed in part (and as to these products, entirely) in the drop-space of the ceiling.<sup>2</sup>

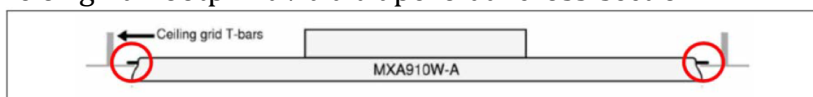


Opinion at 3 (Illustration of Patented Configuration)

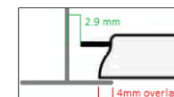


Opinion at 5 (Enjoined Installation)

After being enjoined from selling a product “in a way that encourages or allows integrators to install it in a drop-ceiling mounting configuration,” Shure released a redesigned variant that included flanges for suspending the microphone 100% **beneath** the plane of the drop-ceiling, but preserved the original footprint via a trapezoidal cross-section.



Opinion at 6 (Shure’s Redesigned Product)



Opinion at 8 (Overlap)

On most drop-ceiling grids the base of the tile was too wide to fit between the T-bars, so integrators had to move or dismantle one of the T-bars to install the microphone on its flanges such that the microphone would sit beneath the plane as required to comply with the injunction. Among other evidence, ClearOne brought forth discussions between integrators on Internet forums, such as Reddit, recognizing that simply resting the microphone on the drop-ceiling’s T-bars (in the enjoined configuration) was cheaper and easier than trying to hang it on its flanges. With leave of the Court, ClearOne also located the professional integrator who had posted on Reddit, leading to a trove of testimony and evidence that Shure’s redesign foreseeably incentivized infringing flush-mounted installation, and that raised questions regarding whether Shure had complied in good faith.

This case demonstrates the importance of meaningful redesign and the nigh impossibility of controlling the narrative when everyone can communicate on publicly accessible online forums.

<sup>1</sup> “Integrators” are the individuals who install such microphones.

<sup>2</sup> The first images from the opinion are-is further annotated for clarity in blue.