RECORD OF ORAL RECORD

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE, INC. and APPLE, INC.,

Petitioners,

v.

CONTENTGUARD HOLDINGS, INC.,

Patent Owner.

Case CBM2015-00040[1]
Patent 7,774,280 B2

Oral Hearing Held: February 24, 2016

Before MICHAEL R. ZECHER, BENJAMIN D. M. WOOD, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

        The above-entitled matter came on for hearing on Wednesday,
February 24, 2016, at Southern Methodist University Dedman School of
Law, Hillcrest Classroom -Underwood Law Library, 6550 Hillcrest Avenue,
Dallas, Texas at 1:21 p.m.

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[1] Case CBM2015-00160 has been joined with this proceeding.

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1	P R O C E E D I N G S
2	(1:21 p.m.)
3	JUDGE ZECHER: All right. We're ready, so
4	we're going to turn the floor over to Petitioner's
5	Counsel. Since we didn't get the introductions on the
6	record, if you can just go ahead and state your name and
7	who you represent. One thing I would ask the Petitioner,
8	it was a great overview of the case that the law student
9	gave us, but if you could maybe just give the audience a
10	brief summary of the technology involved. Possibly a
11	practical real world example would be helpful.
12	MR. KUSHAN: Sure. So starting, my name
13	is Jeff Kushan with Sidney Austin representing
14	Petitioner Apple. With me is Mike Franzinger also from
15	Sidney Austin. Also, our Co-Petitioner is represented by
16	Rob Laurenzi with Kaye Scholer for Petitioner Google.
17	COURT REPORTER: Please speak up.
18	MR. KUSHAN: Sure.
19	I'd like to also just go over a logistical point.
20	We're going to split up the topics. I'll begin on
21	invalidity, and Mr. Laurenzi will be addressing CBM
22	eligibility. For the purpose of efficiency, I think our
23	plan is to address invalidity in our case-in-chief.
24	Our papers obviously set out our case on
25	CBM eligibility, and then Mr. Laurenzi will address the

3

1   CBM eligibility issues that are in our rebuttal period to

2   the extent there are issues and questions you have along

3   with whatever residual issues are needing to be

4   addressed. And I'll take care of that after he's finished

5   his CBM section. The only reason I mention that is if

6   you have a question regarding CBM eligibility, I would

7   just ask to have Mr. Laurenzi address that to the Panel in

8   our opening.

9   And as you requested, we believe this is a

10   case that concerns technology which involves

11   distribution of rights from an entity to a consumer. We'll

12   get into this in the claim language as well. It involves

13   the procedures that are followed according to the passage

14   for creating rights that would allow a consumer, for

15   example, to ultimately exercise a variety of actions on a

16   piece of content.

17   But this particular patent focuses on the

18   meta-rights that they have called them to create or use to

19   create these usage rights, and you instituted this

20   proceeding on two grounds. One was based on invalidity

21   as anticipated by the Stefik patent, the '012 patent you

22   just heard, which is on Slide 14.

23   One other quick question: Are you working

24   off the paper slides for --

25   JUDGE ZECHER: Yes.

4

1   MR. KUSHAN: Okay. I don't want to go too

2   fast. The second ground was on obviousness, and I'd

3   direct you to Slide 14, which just summarizes these two

4   grounds, separate bases of institution.

5   Now, we believe the claims are unpatentable

6   because they can't really be distinguished from the

7   disclosure found in the Stefik '012 patent, and that's not

8   surprising because the '280 patent, the patent at issue,

9   points to the Stefik patent, the Stefik '012 patent, not

10   only to show how you can implement the scheme, but

11   also, it relies on its teachings to enable this scheme.

12   And if you want to go to Slide 77, which is at the back

13   end of the deck, you'll see throughout the patent these

14   are just some excerpts from the patent, which are

15   pointing back to the teachings, the disclosure in the '012

16   patent for implementation of the meta-rights scheme.

17   And we think that's probative when we start

18   to look at some of the supposed differences that have

19   been identified in the briefing between the claim it

20   mentioned and the prior argument we're using against it.

21   And critically, we think that tells you that there's no

22   technological addition in the '280 patent relative to that

23   earlier disclosure of Stefik that you need to actually put

24   this practice -- this method into practice.

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