

RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION

Petitioner

vs.

B.E. TECHNOLOGY, LLC

Patent Owner

Case No. IPR2014-00039

Patent 6,628,314

Application No. 09/699705

Technology Center 2100

Oral Hearing Held: Wednesday, December 10, 2014

Before SALLY C. MEDLEY, KALYAN K. DESHPANDE, and LYNNE E. PETTIGREW, *Administrative Patent Judges*.

The above-entitled matter came on for hearing on Wednesday, December 10, 2014 at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia at 3:00 p.m. in Courtroom A.

Case No. IPR2014-00039
Patent 6,628,314

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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P R O C E E D I N G S

(3:00 p.m.)

JUDGE MEDLEY: Please be seated. Good afternoon. This is the third and final session of hearings involving Patent Owner B.E. Technology's U.S. Patent 6,628,314, the '314 patent. This is the session involving IPR 2014-00039 between Petitioner Microsoft and Patent Owner, BE.

IPR 2014-00738 has been joined with the 39 IPR. The Petitioner in that case, again, was given the opportunity to attend today but not to participate by presenting arguments. As we have already explained this morning in the earlier session this afternoon, today's hearing with the different sessions will result in a single transcript to be uploaded in each case.

And during this morning's session, we summarized our conference call that we had with the parties yesterday. And anyone interested in that are directed to the transcript, which will be forthcoming.

So at this time we would like counsel who will present for the Petitioner to identify themselves beginning with Petitioner.

MR. KUSHAN: Good afternoon, Your Honor, Jeffrey Kushan from Sidley for Microsoft. With me is Mr. Border from Sidley. We're also joined by Mr. Lytle from Microsoft.

1 MR. FREITAS: Robert Freitas for the Patent
2 Owner. Also with me is Daniel Weinberg and Dana Zottola.

3 JUDGE MEDLEY: Thank you. For the November
4 14th order, each party will have a total of 45 minutes to
5 present your arguments. Petitioner, you will present first.

6 With respect to challenged claims and grounds for
7 which the Board instituted trial, Patent Owner, you can
8 respond to the presentation and present your motion to amend.

9 Petitioner, you can reserve rebuttal time to respond
10 to Patent Owner's presentation. And then finally, as we all
11 know, Patent Owner, you can reserve some time to present
12 arguments with respect to your motion to amend.

13 So, Petitioner, you may begin. Would you like to
14 reserve rebuttal time?

15 MR. KUSHAN: Yes, Your Honor, thank you. I
16 would like to reserve 25 minutes for rebuttal time.

17 JUDGE MEDLEY: Okay. Thank you. You may
18 proceed.

19 MR. KUSHAN: So as you have heard now in two
20 series of presentations, there are a number of grounds that the
21 petitioners have collectively put forward. We're going to be
22 addressing in our petition the grounds that are based on a
23 reference called Guyot.

24 And if you can put up slide 14.

25 In our proceedings, there are three grounds that
26 were identified, claims 11 to 14, 16 to 19 were found

1 anticipated by Guyot. Claim 15 was found obvious based on
2 Guyot in view of Robinson. And claims 20 to 22 were found
3 obvious based on Guyot and RFC 1635, which is the
4 anonymous FTP technique.

5 I want to frame the discussions a bit because the
6 Patent Owner has essentially grounded the dispute around
7 claims 11 to 19 through the lens of claim 11. They haven't
8 presented any distinct arguments regarding the claim 15 and
9 the grounds that are based on that. They have addressed the
10 obviousness question of 20 to 22.

11 For the dispute around claim 11, the Patent Owner
12 essentially identified three potential distinctions from the
13 Guyot reference. And the first of those relates to the word
14 demographic information. When you instituted trial, you
15 found two instances of demographic information that are being
16 collected in the scheme of Guyot.

17 And what I want to do is, first of all, keep the
18 focus, which is fairly narrow. And this hopefully makes it
19 easier for the discussion today and also for the record.

20 Their arguments are basically that there is these
21 two events which collect demographic information in the
22 Guyot scheme, the first time when it is created, when the
23 personal profile in the Guyot scheme is created, it is in
24 response to a question. The second event is when the personal
25 file is updated during the course of use of the Guyot scheme.

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