

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE INC.,
SAMSUNG ELECTRONICS AMERICA, INC., and
SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

MICROGRAFX, LLC,
Patent Owner.

Case IPR2014-00532
Patent 5,959,633

Before SALLY C. MEDLEY, RICHARD E. RICE, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

RICE, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73(b)

I. INTRODUCTION

Google Inc., Samsung Electronics America, Inc., and Samsung Electronics Co., Ltd. (collectively, “Petitioner”) filed a Petition (Paper 5, “Pet.”) for *inter partes* review of claims 1–4, 6, 8–11, 13, and 15 (the “challenged claims”) of U.S. Patent No. 5,959,633 (Ex. 1001, “the ’633 Patent”). Petitioner also filed a Declaration of Dr. Anselmo Lastra (Ex. 1003).

On August 12, 2014, we instituted an *inter partes* review of all of the challenged claims under 35 U.S.C. § 102, as anticipated by Walton,¹ and under 35 U.S.C. § 103, as obvious over Eick² and Kruglinski³. Paper 11 (“Inst. Dec.”), 19.

After institution of trial, Micrografx, LLC (“Patent Owner”), deposed Petitioner’s declarant, Dr. Lastra, and filed a Patent Owner Response (Paper 22, “PO Resp.”), a transcript of Dr. Lastra’s deposition (Ex. 2004), and a Declaration of Garry Kitchen (Ex. 2005). Patent Owner also filed a Motion to Amend (Paper 21, “Mot.”).

Petitioner deposed Patent Owner’s declarant, Mr. Kitchen, and filed a Reply to the Patent Owner Response (Paper 37, “Pet. Reply”), a transcript of Mr. Kitchen’s deposition (Ex. 1012), and a Second Declaration of Dr. Lastra (Ex. 1011). Petitioner also filed an Opposition to the Motion to Amend

¹ U.S. Patent No. 5,883,639, issued Mar. 16, 1999 (Ex. 1004).

² U.S. Patent No. 5,564,048, issued Oct. 8, 1996 (Ex. 1005).

³ David J. Kruglinski, *INSIDE VISUAL C++* (Dean Holmes et al. eds., 2d ed., Version 1.5, Microsoft Press 1994) (Ex. 1006).

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(Paper 26, “Opp. Mot.”), to which Patent Owner then filed a Reply (Paper 32, “Reply Mot.”).

Patent Owner deposed Dr. Lastra a second time and filed a transcript of the second deposition (Ex. 2008). Patent Owner also filed a Motion for Observations regarding Cross-Examination of Dr. Lastra (Paper 35), to which Petitioner then filed a Response (Paper 37).

An oral hearing was held on May 18, 2015. The transcript of the oral hearing has been entered into the record. Paper 39 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons explained below, Petitioner has shown, by a preponderance of the evidence, that the challenged claims are unpatentable. Patent Owner, however, has not met its burden with respect to its Motion to Amend and, therefore, the motion is *denied*.

A. Related Lawsuits

The parties represent that *Micrografx, LLC v. Google, Inc.*, No. 3:13-cv-03595-N (N.D. Tex.), and *Micrografx, LLC v. Samsung Telecommunications America, LLC*, No. 3:13-cv-03599-N (N.D. Tex.), involve the ’633 Patent. Pet. 2; Amended Mandatory Notices of the Patent Owner pursuant to 37 C.F.R. § 42.8, 2 (Paper 9).

B. The ’633 Patent (Ex. 1001)

The ’633 Patent, titled “Method and System for Producing Graphical Images,” issued on September 28, 1999, from U.S. Patent Application No.

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08/726,091, which was filed on October 4, 1996. Ex. 1001, at [54], [45], [21], [22].

The '633 Patent Specification describes a system for producing graphical images. Ex. 1001, 1:51–54. Included in the system is a computer program “operable to access an external shape stored outside the computer program.” *Id.* at 1:54–56. As described, “[t]he external shape has external capabilities.” *Id.* at 1:56. “Capabilities are action methods, symbol methods, or any other functions that allow the generation of information required to produce a graphical image.” *Id.* at 3:29–31.

In an embodiment, external shape library 124 contains information used by computer graphics application 122 to produce graphical images on output device 116. Ex. 1001, 3:3–6, Fig. 1. The Specification states that “[t]he ability to place the capabilities of a shape outside computer graphics application 122” facilitates use of shapes not contemplated at the time of creation of the computer graphics application. *Id.* at 3:32–51. The shape library comprises shape collection modules 212 and 214. *Id.* at 3:52–54. In one embodiment, the shape collection modules “comprise a dynamic link library (DLL) that allows executable routines to be stored separately as files with DLL extensions and to be loaded only when needed by the program that calls them.” *Id.* at 3:54–57.

Figure 3A of the '633 Patent is reproduced below.

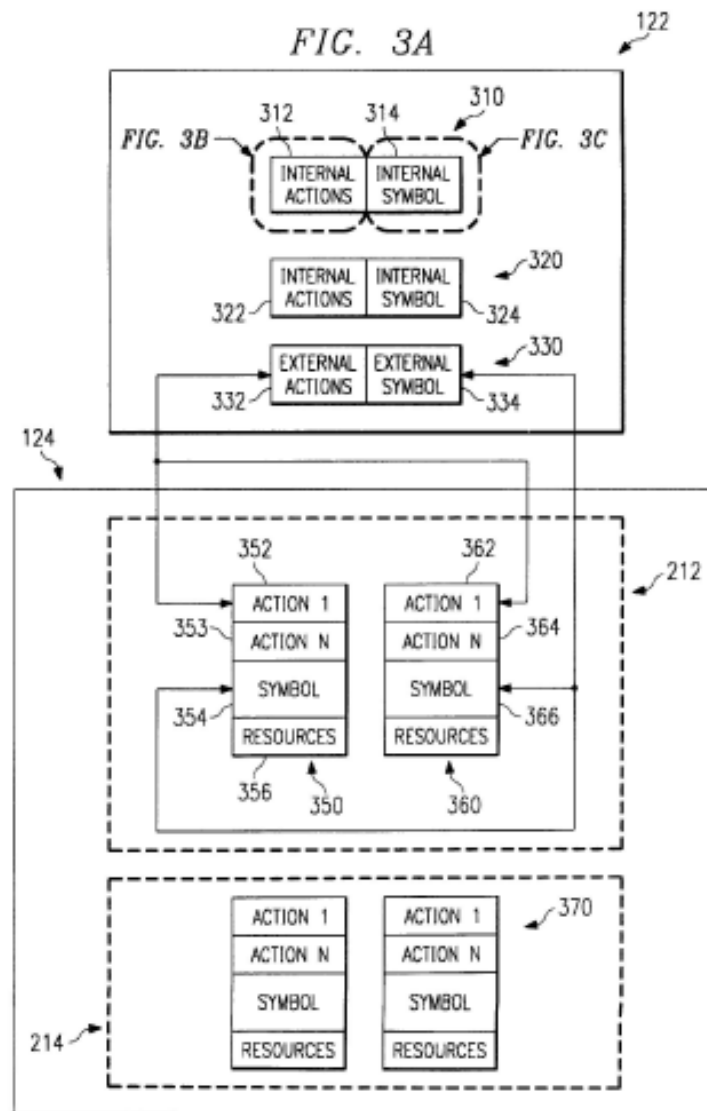


Figure 3A is a schematic of computer application 122 and its interaction with external shape library 124 in block diagram form. Ex. 1001, 4:54–56. As depicted in Figure 3A, computer graphics application 122 comprises internal shapes 310 and 320 and external shape template 330. *Id.* at 4:57–59. “Internal shapes 310 and 320 each comprise information used by computer graphics application 122 to produce a different graphical image

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