

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION,  
Petitioner,

v.

BRADIUM TECHNOLOGIES LLC,  
Patent Owner.

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Cases IPR2015-01432  
Patent 7,139,794 B2

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Held: September 19, 2016

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BEFORE: BRYAN F. MOORE, BRIAN J. McNAMARA, and  
MINN CHUNG, Administrative Patent Judges.

The above-entitled matter came on for hearing on Monday,  
September 19, 2016, commencing at 1:28 p.m., at the U.S. Patent  
and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Cases IPR2015-01432  
Patent 7,139,794 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF PATENT OWNER:

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1 you also have a motion to exclude evidence that you may want to  
2 argue. After that we'll hear from Bradium Technologies. And  
3 then after that the petitioner can use any time it's reserved to rebut  
4 the patent owner's opposition. I presume everybody is ready to  
5 proceed. So we will begin with the petitioner.

6 MR. BERNSTEIN: Good afternoon, Your Honors. I  
7 am Matt Bernstein and I will be arguing as well as I'll be getting  
8 some assistance from my colleagues, Mr. Ai and Mr. Day.

9 I think we intend on using approximately 25 minutes,  
10 possibly 30 of our time in this opening presentation. And we  
11 reserve the remainder of our time.

12 In this trial Microsoft has the burden of proof by a  
13 preponderance of the evidence. And the totality of the evidence  
14 in this case --

15 JUDGE McNAMARA: Did you say you are going to  
16 reserve 20 minutes?

17 MR. BERNSTEIN: Yes, Your Honor.

18 JUDGE McNAMARA: I apologize. I thought I was  
19 listening more closely.

20 MR. BERNSTEIN: Give or take a couple of minutes,  
21 Your Honor. The totality of the evidence in this case, Your  
22 Honors, demonstrates Microsoft has met this preponderance of  
23 the evidence burden. This is an interesting case because there are  
24 more things that are not disputed than actually are disputed.

1 There is no challenge by Bradium as to the prior art status of any  
2 of Microsoft's references. There's no evidence in this case of any  
3 secondary considerations of nonobviousness, no commercial  
4 success or praise or long-felt need or licensing of the '794 patent.  
5 And when you look at demonstrative 16 through 19, Your  
6 Honors, and I'll pull up demonstrative 16 right now, the color  
7 coding on these four slides, what you see is the items in red are  
8 the only disputed limitations. So most, not all, but most of the  
9 limitations are undisputed. Undisputedly met.

10 It's also not disputed that the inventors of the '794 patent  
11 were concerned with reducing latency of images transferred over  
12 the Internet. The patent says this at column 1, lines 32  
13 through 47. And likewise, there is no dispute that Microsoft's  
14 prior art references address this. So based on the preponderance  
15 of the evidence, especially our starting point, Microsoft has met  
16 its burden of proof.

17 I want to address a few things in the '794 patent  
18 relatively briefly, Your Honors, simply because there's a dispute  
19 as to the level of ordinary skill in the art and there's also at least a  
20 little dispute, maybe more, as to the motivation to combine.

21 As discussed in the Board's institution decision, that's  
22 paper 15 at page 3, the '794 patent concerns reducing latency and  
23 transmitting full resolution images over the Internet on an  
24 as-needed basis particularly for complex images. And when

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