

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WHATSAPP INC. and FACEBOOK, INC.

Petitioner

v.

TRIPLAY, INC.

Patent Owner

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IPR2016-00718

Patent 8,874,677 B2

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PATENT OWNER'S MOTION FOR OBSERVATIONS ON THE APRIL 14,  
2017 CROSS-EXAMINATION OF MR. KLAUSNER

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## Observations

The following are the Patent Owner's observations on the April 14, 2017 cross-examination of Petitioner's expert, Mr. Klausner, contained in his deposition transcripts (Ex. 2110)

1. In exhibit 2110, on page 22, line 18 to page 24, line 14, Mr. Klausner testified as follows (objections omitted):

Q. And [Coulombe's] Proxy Registrar 12 is capable of transcoding video in situations in which the codecs don't match between terminals?

A. *In your question, what type of video are you referring to?*

Q. Streaming video.

A. *Proxy 12 can transcode that streaming video between the two users with their terminals, yes.*

Q. In a situation in which the codecs don't match?

A. *Yes.*

Q. Okay. And codecs not matching can occur in circumstances in which the sending and receiving terminals have different characteristics with respect to format support?

A. *It can occur where the two computers or FPGAs or equivalent, as I described earlier, do not accept the formats of each other. And so in order for those computers and those users to display on their terminals, on their displays, there would have to be some adaptation of the codecs.*

...

Q. You agree that transcoding proxies in session-based SIP communications were capable of transcoding media to make it suitable to the receiving terminal's capabilities?

A. *What type of video are you referring to in your question?*

Q. Streaming video.

A. *Yes. Coulombe says that his proxy can do that.*

This testimony is relevant to Petitioner's argument at pages 7 to 9 of the Reply Petition in which Petitioner contends Coulombe actively discourages the use of existing SIP proxies to transcode video content when it states at ¶ 69: "There is no mention that such adaptation could take place for messaging applications and no mention that it should be based on recipient's characteristics." This argument is hereinafter referred to as "the active discouragement argument." And the testimony is particularly relevant to the portion of that argument at page 8 of the Reply asserting that Coulombe "flat out says, in fact, that SIP provides no ability to adapt streaming video 'based on the recipient's terminal characteristics.'" The testimony is relevant to this argument because it contradicts the statement that SIP provides no ability to adapt streaming video based on terminal characteristics.

2. In exhibit 2110, on page 31, line 19 to page 33, line 11, Mr. Klausner testified as follows (objections omitted):

Q. So the SIP instant messaging protocol didn't have the capability of adaptation a format to make it suitable to recipient, correct?

A. *I think I've answered this question before, and it was a response to Paragraph 7.5 of Exhibit 2104.*

Q. And that paragraph indicates that if a message is received with an unsupported format type, it should return an error message, correct?

A. *That's a re-characterization of 7.5, which actually says, "As specified in RFC 2543, if a UAS receives a request with a body of type it does not understand, it must respond with a 415 unsupported media type containing an Accept header listing those types which are acceptable," and then it goes on from there.*

...

Q. If the sender sent a format that was not supported by the recipient, the instant messaging protocol put the onus on the recipient to advise the sender of what formats the recipient did actually support?

A. *The SIMPLE protocol of Exhibit 2104, SIMPLE being the capitalized word, says that the recipient should respond with an Accept header, including those types which are acceptable to the recipient to go back to the sender, in the case when a body is not acceptable. In other words, a body that the recipient does not understand.*

Q. And nothing in the SIP instant messaging protocol provided for transcoding media formats to make them suitable to the format supported by recipient, correct?

A. *I've not seen the word "transcoding" in my brief read of the Exhibit 2104.*

This testimony is relevant to Petitioner's active discouragement argument at pages 7 to 9 of the Reply Petition. The testimony is relevant to the active discouragement argument because it supports the Patent Owner's position that, when read in proper context, the reference to "messaging applications" in the

sentence from ¶ 69 of Coulombe cited by Petitioner (i.e., “There is no mention that such adaptation could take place for messaging applications and no mention that it should be based on recipient’s terminal characteristics.”) refers to non-session based SIP instant messaging--not session-based SIP video streaming.

3. In exhibit 2110, on page 10, lines 16 to 25 and on page 36, line 2 to 11, Mr. Klaunser testified as follows (objections omitted):

Q. And I would like you to turn your attention to Paragraph 2 of Coulombe.

A. *I have it.*

Q. I'm going to read the, I guess it's the third sentence in that paragraph which says, "But emerging mobile terminals have made this requirement more challenging due to the wide diversity of terminal characteristic: Display size and resolution, available memory, format supported, et cetera."

...

Q. So Coulombe defines terminal characteristics to include the format supported?

A. *What you've read is correct.*

...

Q. And as we talked about before when we talked about the second paragraph of Coulombe, Coulombe does list format supported as a terminal characteristic, correct?

A. *Yes. And as I've said many times today, Coulombe, I think the person of ordinary skill would understand Coulombe to mean the entire recipient side that includes the physical display as well as the -- particularly, the*

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