

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISH NETWORK, LLC,
Petitioner,

v.

TQ DELTA, LLC,
Patent Owner.

Case IPR2016-01469 (Patent 9,094,268)
Case IPR2016-01470 (Patent 8,611,404)

Record of Oral Hearing
Held: November 8, 2017

Before SALLY C. MEDLEY, TREVOR M. JEFFERSON, and MATTHEW
R. CLEMENTS, *Administrative Patent Judges*.

Case IPR2016-01469 (Patent 9,094,268)

Case IPR2016-01470 (Patent 8,611,404)

APPEARANCES:

ON BEHALF OF PETITIONER:

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The above-entitled matter came on for hearing Wednesday, November 8, 2017, commencing at 2:45 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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PROCEEDINGS

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JUDGE CLEMENTS: Good afternoon. This is the final hearing for
4 IPR 2016 01469 and 01470 between petitioner DISH Network LLC and
5 patent owner TQ Delta LLC.

6

I'm Judge Clements, participating remotely from San Jose, and in the
7 room with you are Judges Medley and Jefferson. At this time we'd like
8 counsel to introduce yourselves, beginning with counsel for petitioner,
9 please.

10

MS. KEEFE: Good afternoon, Your Honor. Heidi Keefe on behalf of
11 DISH Network. With me at counsel table is Jen Volk-Fortier. With me also
12 from Cooley is Steven McBride, and I'm also pleased to introduce my clients
13 Larry Katzen and Jim Hemps from DISH Network.

14

JUDGE CLEMENTS: Welcome.

15

And counsel for patent owner?

16

MR. McANDREWS: Good afternoon, Your Honors. Peter
17 McAndrews for patent owner TQ Delta, LLC. I have with me Rajendra
18 Chiplunkar, who will be making the argument, Tom Wimbiscus, Chris
19 Scharf, and from TQ Delta, Nabha Rege.

20

JUDGE CLEMENTS: Okay. Thank you. Before we proceed, I have
21 a couple reminders. Number one, each party will have 45 minutes total time
22 to present arguments for the two cases. Petitioner will proceed first and may
23 reserve rebuttal time. Thereafter, patent owner will respond to petitioner's
24 presentation, and petitioner may then make use of any time it has reserved.

25

Number two, with respect to demonstratives, please refer to the slide
26 number so that it appears in the record and so that I can follow along

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1 remotely. I have a copy of your demonstratives in front of me.

2 Any questions, counsel for the petitioner?

3 MS. KEEFE: No, Your Honor.

4 JUDGE CLEMENTS: Okay. Any questions counsel for patent
5 owner?

6 MR. McANDREWS: No, Your Honor.

7 JUDGE CLEMENTS: Very good.

8 Ms. Keefe, would you like to reserve any rebuttal time?

9 MS. KEEFE: Yes. I'd like to reserve 20 minutes, please.

10 JUDGE CLEMENTS: I'll give you a heads up when we approach
11 that; and otherwise, you may begin when ready.

12 MS. KEEFE: Thank you, Your Honor.

13 As Your Honor I'm sure is aware, many of the arguments will overlap
14 with what you just heard, so I'll try to be brief as to those. The big
15 difference, obviously, is the use of the secondary references, the other
16 materials that we're using in combination with Bowie. Bowie, of course, is
17 in common with all.

18 For the '268 patent, just to reorient us, DISH has proposed Bowie in
19 view of Morelli and the 1995 ADSL standard for claims 1, 2, 11, 12. And for
20 claims 4, 14, 16, and 18, Bowie in view of Morelli.

21 For the '470 patent, claims 6, 11, 16, and 20 are rendered obvious in
22 view of Bowie, the 1995 ADSL standard, and I'm going to call it the "Van
23 reference" -- I apologize -- but for the record to be clear, it is the
24 Vanzielegem, V-A-N-Z-I-E-L-E-G-H-E-M, reference. And I hope the
25 Board understands if I simply call it "Van" because I'll never get this
26 pronunciation right.

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1 Before I dive too much farther into the arguments, I wanted for us to
2 take just a quick step back up to remember what these patents are all about.
3 All of these patents and all of the references -- sorry. I should say the patent
4 in question and all the references being used to invalidate them are looking
5 at multi-carrier systems and ways of reducing power in those multi-carrier
6 systems.

7 One of the best reasons that all of these are easily combinable is that
8 in fact even their titles tell us that that's exactly what they are. They are
9 multi-carrier systems with low power modes or multi-carrier systems with a
10 sleep mode. And so this is one of the few cases that I've had the pleasure of
11 arguing where even the titles tell us that they are the proper obviousness
12 combinations to make.

13 With respect to the '268 patent, the first element that I'd like to point
14 to is the element in claim 2, maintaining synchronization. Now, obviously,
15 when you have two things that are trying to talk to each other, and one of
16 them goes to sleep, there's a need for people to be able to make sure that the
17 two things that are supposed to talk are on the same page, to use a terrible
18 colloquialism, but to make sure that people are speaking the same way, that
19 you're still talking about the same things even though one of those elements
20 has perhaps gone to sleep and may not be in the same place.

21 Patent owner is trying to argue a definition of synchronization that we
22 think is too narrow. Patent owner's proposed construction of maintaining a
23 timing relationship between two transceivers by correcting errors or
24 differences in the timing of the timing reference of the transceiver and the
25 timing reference of the second transceiver is simply not supported by the
26 specification of the patent. Nothing about the last segment -- the by

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