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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BARCO, INC., X2O MEDIA INC., and BARCO N.V.,
Petitioner,

v.

T-REX PROPERTY AB,
Patent Owner.

Case IPR2017-01915
Patent 6,430,603 B2

Before SALLY C. MEDLEY, THOMAS L. GIANNETTI, and DANIEL N. FISHMAN, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Barco, Inc., X2O Media Inc., and Barco N.V. ("Petitioner") filed a Petition for *inter partes* review of claims 13–16, 23, 42, 43, and 48 of U.S. Patent No. 6,430,603 B2 (Ex. 1001, "the '603 patent"). Paper 1 ("Pet."). T-Rex Property AB ("Patent Owner") filed a Preliminary Response. Paper 6 ("Prelim. Resp."). Institution of an *inter partes* review is authorized by statute when "the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition and Preliminary Response, we conclude the information presented does not show there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of any of claims 13–16, 23, 42, 43, and 48 of the '603 patent.

A. Related Matters

The parties indicate that the '603 patent is the subject of several court proceedings. Pet. 1–5; Paper 3, 2–5. The '603 patent was also the subject of Board proceeding CBM2017-00008, but no review was instituted. *Id*.

B. The '603 Patent

The '603 patent describes a system "for direct placement of commercial advertisements, public service announcements and other content on electronic displays." Ex. 1001, 2:50–53, Fig. 1. According to the '603 patent, the system includes a network comprising a plurality of electronic displays that "are located in high traffic areas in various geographic locations," such as "areas of high vehicular traffic, and also at indoor and outdoor locations of high pedestrian traffic, as well as in movie theaters,

restaurants, sports arenas." *Id*. at 2:54–60. "In preferred embodiments, each display is a large (for example, 23 feet by $33^{1}/_{2}$ feet), high resolution, full color display that provides brilliant light emission from a flat panel screen." *Id*. at 2:62–65.

C. Illustrative Claims

Petitioner challenges claims 13–16, 23, 42, 43, and 48 of the '603 patent.[1] Claims 13 and 48, reproduced below, are the only challenged independent claims.

> 13. A system for presenting video or still-image content at selected times and locations on a networked connection of multiple electronic displays, said system comprising:
>
> a network interconnecting a plurality of electronic displays provided at various geographic locations;
>
> means for scheduling the presentation of video or still-image content at selected time slots on selected electronic displays of said network and receiving said video or still-image content from a content provider;
>
> transmission means in communication with said receiving means for communicating scheduled content to respective server devices associated with corresponding selected electronic displays of said network, each said associated device initiating display of said video or still-image content at selected times on a corresponding selected electronic display of said network.

Id. at 8:47–62.

> 48. A method for presenting video or still-image content at selected times and locations on a networked connection of multiple electronic displays, said method comprising:

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[1] Claims 1–12, 17, 19, 20, 22, 28–33, 45–47, 49, 51–55, and 58–74 of the '603 patent were statutorily disclaimed. Prelim. Resp. 2; CBM2017-00008, Ex. 2001.

a) providing a network interconnecting a plurality of electronic displays at various geographic locations;

b) enabling a content provider to schedule presentation of video or still-image content at selected time slots on selected electronic displays of said network and receiving said video or still-image content from a content provider;

c) providing a plurality of server devices, each server device associated with a corresponding electronic display;

d) communicating received video or still-image content to the associated server devices of corresponding selected electronic displays of said network; and

e) said server device initiating display of said video or still-image content at selected times on an associated electronic display of said network.

Id. at 11:34–53.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 13–16, 23, 42, 43, and 48 are unpatentable based on the following grounds (Pet. 15–59):

Reference(s)	**Basis**	**Challenged Claim(s)**
Nakamura[2]	§ 102(b)	13–16, 42, 43, and 48
Nakamura and Cho[3]	§ 103(a)	23
Hylin[4]	§ 102(b)	13–16 and 48
Hylin and Cho	§ 103(a)	23
Hylin and Nakamura	§ 103(a)	42 and 43

[2] Japanese Unexamined Patent Application Publication H07-168544, published July 4, 1995 (Ex. 1003) ("Nakamura").
[3] U.S. Patent No. 5,566,353, issued Oct. 15, 1996 (Ex. 1004) ("Cho").
[4] PCT International Publication No. WO 97/41546, pub. Nov. 6, 1997 (Ex. 1006) ("Hylin").

II. DISCUSSION

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are construed according to their broadest reasonable interpretation in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Under that standard, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

"means for scheduling"

Independent claim 13 recites "means for scheduling the presentation of video or still-image content at selected time slots on selected electronic displays of said network and receiving said video or still-image content from a content provider." The parties agree that the "means for scheduling" limitation recited in claim 13 is a means-plus-function limitation and should be construed under 35 U.S.C. § 112, sixth paragraph. Pet. 11–13; Prelim. Resp. 5–10.

Pursuant to 37 C.F.R. § 42.104(b)(3), Petitioner must propose a construction under 35 U.S.C. § 112, sixth paragraph, for any means-plus-function limitation, "identify[ing] the specific portions of the specification that describe the structure, material, or acts corresponding to each claimed

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