UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SLING TV L.L.C., SLING MEDIA, L.L.C.,
DISH NETWORK L.L.C., DISH TECHNOLOGIES L.L.C.
Petitioners

v.

REALTIME ADAPTIVE STREAMING LLC,
Patent Owner.

Case IPR2018-01342
Patent 8,934,535 B2

PATENT OWNER'S RESPONSE

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TABLE OF CONTENTS

I. Introduction 1

II. The '535 Patent (Ex. 1001) 2

A. Overview of the '535 Patent 2

B. Claims of '535 Patent 5

C. Prosecution of '535 Patent 7

III. Person of Ordinary Skill in The Art 8

IV. Claim Construction 8

A. "data block" 9

B. "parameter" 9

C. "asymmetric compressors" / "asymmetric data compression" 11

D. "access profile" 12

1. Patent Owner's proposed construction is correct. 13
2. Petitioner's proposed construction is incorrect. 16
3. The Board's preliminary construction from IPR2018-01169 is incorrect. 18

V. Overview of Prior Art 20

A. Dvir (Ex. 1004) 20

B. Ishii (Ex. 1005) 22

VI. Ground 1: The Petition's Dvir-Based Anticipation Theory Fails. 24

A. The Petition's reliance on at least two different embodiments of Dvir fails to meet its burden to show anticipation. 24

1. Under Federal Circuit law, an anticipatory reference must disclose all elements *arranged* in the same way as the claim. 24
2. The Petition's anticipation theory relies on at least two different embodiments of Dvir. 25
3. The Petition fails to prove that Dvir discloses all limitations arranged in the same way as the claim. 27

B. The Petition fails to show "determining a parameter or attribute of at least a portion of a data block having audio or video data" 29

1. The Petition fails to show that Dvir discloses a "data block" as required by the claim. 29

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2. The Petition fails to show that Dvir discloses "determining a parameter or attribute of at least a portion of a data block" as required by the claim. 32

C. The Petition fails to show "selecting an access profile from among a plurality of access profiles based upon the determined parameter or attribute." 34
1. Under the correct construction of "access profile," the Petitioner's anticipation theory fails. 34
2. The Petition offers no opinions, evidence, or argument under the Board's preliminary construction of "access profile" from IPR2018-01169. 36

D. The Petition fails to show "one or more compressors using asymmetric data compression . . ." 37

VII. Ground 2: The Petition's Dvir-Based Obviousness Theory Fails. 39

A. The Petition and Dr. Acton's obviousness reasoning fails because it incorrectly assumes that Dvir's compressed video would be decompressed far more frequently than it was compressed. 40
1. Remote receivers of Dvir's compressed video would not decompress the video more frequently than it was compressed. 41
2. Only one end-user receives each of Dvir's compressed video transmissions. 42
3. Dvir incorporates by reference a display monitor that cannot decode a received video signal more than once. 44

B. Dr. Acton also fails to show that "asymmetric" compression would be obvious. 45

VIII. Ground 3: The Petition's Dvir and Ishii Obviousness Theory Fails. 47

A. Ground 3 fails because Dvir does not anticipate or render obvious independent claim 1 of the '535 patent. 47

B. Ground 3 fails also because there is no motivation to combine Dvir and Ishii. 48
1. Dvir teaches data compression only for the purpose of transmitting through bandwidth limited channels. 48
2. Dvir does not teach storage of multimedia data. 48
3. Dvir assumes the multimedia arrives, gets compressed, and transmitted. 49
4. Ishii's file system compression has nothing to do with Dvir's teachings. 49
5. Ishii does not teach storage of audio or video data. 50
6. Ishii's system adds computational complexity and storage 50
7. Dvir and Ishii have different principles of operation. 51

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C. The Petition's Ground 3 theory for claims 3, 4, and 11 fails for additional reasons. 52

IX. The Petition is time-barred under § 315(b). 54

X. Conclusion 54

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EXHIBIT LIST

Exhibit No.[1]	Description
1001	U.S. Patent No. 8,934,535 to Fallon ("the '535 Patent")
1002	Prosecution History of the '535 Patent ("the Prosecution History")
1003	Declaration of Dr. Scott Acton
1004	U.S. Patent No. 6,557,001 ("Dvir")
1005	U.S. Patent No. 5,675,789 ("Ishii")
1006	U.S. Patent No. 6,216,157 ("Vishwanath")
1007	Prosecution History of U.S. Patent No. 8,867,610 to Fallon ("the '610 Patent")
1008	U.S. Patent No. 6,195,024 to Fallon ("the '024 Patent")
1009	*Realtime Data LLC v. Rackspace US, Inc. et al.*, Dkt. No. 183, Case No. 6-16-cv-00961 (E.D. Tex. June 29, 2016)
1010	*Realtime Data LLC v. Actian Corporation et al.*, Dkt. No. 362, Case No. 6-15-cv-00463 (E.D. Tex. May 8, 2015)
1011	Infringement Contentions for U.S. Patent No. 8,934,535 from *Realtime Adaptive Streaming LLC v. Sling TV L.L.C. et al.*, Case No. 1:17-cv-02097-RBJ (D. Colo.)
1012	*Realtime Data, LLC d/b/a IXO v. Packeteer Inc., et al.*, No. 6:08-cv-00144 Docket No. 371, p. 59 (E.D. Tex. June 22, 2009)
1013	Held, G. *Data Compression: Techniques and Applications, Hardware and Software Considerations*, John Wiley & Sons, 1983
1014	Fahie, John Jacob (1884). *A History of Electric Telegraphy, to the Year 1837*. E. & F.N. Spon.
1015	Mag, Lond Mechanics. "*Mr. Bain's Electric Printing Telegraph*." Journal of the Franklin Institute, of the State of Pennsylvania, for the Promotion of the Mechanic Arts; Devoted to Mechanical and Physical Science, Civil Engineering, the Arts and Manufactures, and the Recording of American and Other Patent Inventions (1828-1851) 8.1 (1844): 61.

[1] Exhibits 1001–1025 were submitted with the Petition and labeled "DISH1001" to "DISH1022." Exhibits 2001–2009 were submitted with Patent Owner's Preliminary Response. Exhibits 2010–2016 are submitted with Patent Owner's Response.

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