

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 OBJECTIONS
TO PETITIONER'S DEMONSTRATIVE**

IPR2018-01342 ('535 Patent)
Patent Owner's Objections to Petitioner's Demonstratives

Petitioner filed 137 total demonstrative slides in the two IPRs consolidated for oral argument (Ex. 1036 in IPR2018-01342 and Ex. 1030 in IPR2018-01331). Patent Owner objects to only a small subset of slides in view of the Board's guidance in its oral argument order. *See* Paper 37 at 4 (“The parties are advised to limit objections to demonstrative exhibits to egregious violations that are prejudicial to the administration of justice.”).

The following slides are improper because they attempt to expand the scope of this IPR proceeding beyond the theories and grounds identified in the Petition. *See* 35 U.S.C. § 312(c) (requiring petition to identify “in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim”). For example, the slides allege that the term “access profile” in claims 1 and 14 of the '535 patent would have been obvious, but no such obviousness theory was presented in the instituted grounds for those claims (Grounds 1 and 2). *See Acceleration Bay, LLC v. Activision Blizzard Inc.*, 908 F.3d 765, 775 (Fed. Cir. 2018) (rejecting “a new obviousness argument for [a particular] limitation that could have been made in the petition . . . which proposed that [the prior art] rendered obvious a number of *other* claim limitations. [Petitioner] had an opportunity to present this argument in its petition, but chose not to.”).

IPR2018-01342 ('535 Patent)
Patent Owner's Objections to Petitioner's Demonstratives

Slide	Patent Owner's Objections to Petitioner's Demonstratives (Ex. 1036)
42–43	These slides allege that Dvir satisfies Realtime's construction of "access profile." But the Petition did not consider any alternate constructions of "access profile" or present any theories or evidence under other constructions. Further, the Petition could have accounted for Realtime's construction because it comes directly from the specification at '535 patent, at 8:8–12.
44–46, 47	These slides allege that Dvir renders obvious "access profile." But this obviousness theory was never presented in the Petition. Ground 1 is limited to anticipation and Ground 2 never mentions the term "access profile."
51–52	These slides allege that Dvir discloses "asymmetric" compression under Realtime's construction. But the Petition did not consider Realtime's construction or present any theories or evidence under that construction. Further, the Petition could have accounted for Realtime's construction because it is the definition of "asymmetric" compression given in patent. <i>See</i> '535 patent at 9:63–67.

Respectfully submitted,

Dated: December 2, 2019

/ Philip X. Wang/

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that the above document was served on December 2, 2019, by filing this document through the Patent Trial and Appeal Board End to End system as well as delivering a copy via electronic mail upon the following attorneys of record for Petitioners:

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