

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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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.

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Case IPR2018-01331 (Patent 8,867,610 B2)  
Case IPR2018-01342 (Patent 8,934,535 B2)

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Record of Oral Hearing  
Held: December 5, 2019

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Before KEVIN W. CHERRY, GARTH D. BAER, and  
NABEEL U. KHAN, *Administrative Patent Judges*.

Case IPR2018-01331 (Patent 8,867,610 B2)

Case IPR2018-01342 (Patent 8,934,535 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Thursday, December 5, 2019, commencing at 1:00 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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P R O C E E D I N G S

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JUDGE CHERRY: Please be seated. So, good afternoon. This is the hearing in IPR2018-01331 and IPR2018-01342, Sling et al. v. Realtime Adaptive Streaming. Will the parties please make their appearances?

MR. CORDELL: Good afternoon, Ruffin Cordell from Fish & Richardson; and with me is my partner Adam Schartzer; and our clients Larry Katzen and Jim Hanft from DISH.

JUDGE CHERRY: Welcome.

MR. WANG: Good afternoon, Your Honors; Philip Wang for Plaintiff (did he misspeak or say Patent Owner?), Realtime Adaptive Streaming; and with me is myself.

JUDGE CHERRY: Thank you. Mr. Cordell, as the Petitioner you have the burden of proof. We've allowed 45 minutes. How much time do you want to reserve for rebuttal?

MR. CORDELL: Twenty minutes.

JUDGE CHERRY: I think we talked about the -- the panel talked about this -- if you want to focus your presentation on the 1342 case, we think that would be particularly helpful.

MR. CORDELL: That has been our plan. So, if that works for the Board then, may it please the Board, Ruffin Cordell from Fish & Richardson, I will handle the 1342 appeal; Mr. Schartzer will deal with the '610 issues to the extent that we haven't already covered them as part of the 1342.

JUDGE CHERRY: Great; all right.

MR. CORDELL: So we have slides. May I distribute those?

1 JUDGE CHERRY: Thank you.

2 MR. CORDELL: So, we have both the luxury and the burden in this  
3 case of the Board having heard some of this before in some of the related  
4 IPRs. But, so, I'll do a bit of background and then go right into the issues.

5 JUDGE CHERRY: Sure.

6 MR. CORDELL: So, we have three grounds for consideration.

7 (OFF THE RECORD)

8 MR. CORDELL: So, three grounds for consideration: anticipation by  
9 Dvir; obviousness over Dvir; and then obviousness over Dvir and Ishii. So,  
10 I'll do a little background on the patents, talk about the issues; and then we'll  
11 get into each of them in some detail.

12 So, the '535 Patent, this Board is very familiar with having considered  
13 it before, so I won't spend a ton of time on it; but the one thing that struck  
14 me when I first approached the '535 Patent is the level of abstraction of the  
15 patent, it's a very high level patent. There's some detail in the specification,  
16 but it's never claimed; and what is actually claimed is a very high level  
17 process where data is examined; a parameter is ascertained, that is used then  
18 to pick a compression algorithm; and it's devoid of any context. We don't  
19 know if it's a memory system, a transmission system, a toaster, we don't  
20 know what it is. It just has to have those few elements.

21 We see it in the specification that it uses access profiles to link a data  
22 type with a compression algorithm; and we're going to talk about that quite a  
23 bit during the claim construction.

24 JUDGE CHERRY: And just for your reference, Judge Khan can't see  
25 what's on the screen; so, if you just, well, say what slide you're on so that he  
26 can follow along?

1 MR. CORDELL: Thank you, Your Honor; that's always helpful. So,  
2 I'm now looking at slide 5, and going to slide 6, we see the claim itself; and  
3 the claim itself, again, is very simple: determine a parameter; select an  
4 access profile; and compress using that profile. Pretty much just an a-b-c  
5 kind of claim.

6 The prior art we're going to spend most of our time with on slide 7 is  
7 Dvir. It's a system for streaming compressed video data but, again, these  
8 claims are agnostic as to the application. It really is just all about  
9 compression. And it turns out the Dvir system has exactly that same three-  
10 step process where a parameter is determined here at slide 8. That parameter  
11 is matched to a compression profile at slide 9; and then at slide 10, that  
12 compression profile is used to compress the data. That same three-step  
13 approach that the claims talk about is exactly what Dvir talks about. And  
14 we'll take you through that in a lot of details when we get to the substantive  
15 issues.

16 So, at slide 12, I've got a summary of the issues that I hope to cover  
17 today; and, actually though, these are the proposed constructions of access  
18 profile and the other terms that are at issue. I'll deal with these substantively  
19 as we get to the issues; so, let me dive in.

20 So, at slide 12, or 13, we have the summary of the issues that we'll  
21 cover today. I'm going to talk a little bit about the construction of access  
22 profile. The Board invited the parties to exchange views on that; and we,  
23 obviously, have. I'll talk about the invalidity grounds themselves, 1 and 2,  
24 over Dvir, both from an anticipation and obviousness perspective; and then  
25 the parties' disputes have been pretty much focused on these four issues:  
26 whether a single disclosure demonstrates anticipation; the meaning of access

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