

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
AND GOOGLE LLC,
Petitioner,

v.

IRON OAK TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2018-01552 (Patent 5,699,275)
Case IPR2018-01553 (Patent 5,699,275)^{1,2}

Record of Oral Hearing
Held: November 4, 2019

Before SALLY C. MEDLEY, PATRICK R. SCANLON and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

¹ This Transcript addresses the same issues in the *inter partes* reviews listed above. Therefore, we issue one Transcript to be filed in both cases. The parties, however, are not authorized to use this style of filing in subsequent papers.

² Google LLC, who filed petitions in IPR2019-00110 and IPR2019-00111, has been joined as a petitioner in the respective proceedings.

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APPEARANCES:

ON BEHALF OF THE PETITIONER:

JOSEPH PALYS, ESQ.
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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Monday, November 4, 2019, commencing at 12:59 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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1 PROCEEDINGS

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3 BAILIFF: All rise.

4 JUDGE MEDLEY: Please be seated. Good afternoon. This is the
5 hearing for IPR 2018-01552 and '1553 involving U.S. Patent No. 5,699,275.
6 At this time, we'd like the parties to please enter as counsel for the record,
7 beginning with the Petitioner.

8 MR. PALYS: Good afternoon, Your Honor. Joseph Palys for
9 Petitioner and joining with me is my colleague, Phillip Citroen.

10 JUDGE MEDLEY: Thank you; and for Patent Owner?

11 MR. DEAVER: Good afternoon, Your Honors, Al Deaver for Patent
12 Owner.

13 JUDGE MEDLEY: Okay; thank you.

14 MR. DEAVER: Thank you.

15 JUDGE MEDLEY: Each party has 45 minutes total time to present
16 arguments. Petitioner, you will proceed first and you may reserve some of
17 your argument time to respond to arguments presented by the Patent Owner.
18 Thereafter, Patent Owner will respond to Petitioner's presentation and may
19 reserve argument time for sur-rebuttal. Petitioner, do you wish to reserve
20 some of your time?

21 MR. PALYS: Yes, Your Honor. I'm going to shoot for a 30 minutes
22 opening so, maybe 15 minutes; but, it'll depend on the questions from the
23 Board.

24 JUDGE MEDLEY: Okay; sure. And then Patent Owner, would you
25 like to reserve sur-rebuttal time?

26 MR. DEAVER: Ah, yes; 15 minutes would be fine; thank you.

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1 JUDGE MEDLEY: 15; okay; thank you. As a reminder, please refer
2 to the slide numbers in your deck so that we may follow along. Also, please
3 speak into the microphone at the podium so that all may hear. We would
4 like to remind the parties that this hearing is open to the public, and the
5 transcript will be entered into the public record of the proceeding. And at
6 this time, Petitioner, you may proceed.

7 MR. PALYS: Good afternoon. May it please the Board. As the
8 Board is aware, these two matters involve 5 grounds. The '1552 matter
9 involves 3, and the '1553 matter involves 2. And the prior art that stems
10 across these two cases and these five grounds really relate to some primary
11 references -- Sugita, Ballard, and Hapka. There are some obviousness
12 combinations -- Hapka with Parrillo and Ballard with Shimizu.

13 Now, as I will discuss today, and it's evident from the record, we
14 believe that the Patent Owner has really narrowed the questions and the
15 issues that this Board has to address with respect to both of these matters;
16 and I'm going to touch on that or try to, at least, during this proceeding.
17 They touch on implied constructions or interpretations of certain terms in the
18 claims and, in some instances, how that applies to the prior art that's at issue.
19 So, I've started at slide two -- sorry, I've already -- didn't follow the advice
20 of Her Honor. I'm going to move to slide 3.

21 Now, before I jump in, I will just briefly touch claim 1. It's no
22 surprise; we know that claim 1 is a system claim, it's not a method claim;
23 and it requires three items: a manager host; a first mobile unit; and a second
24 mobile unit. And each of these elements is operable to do something; and
25 that's clear from the language of the claims that you see here. The first and
26 second mobile units are operable to do three things: receive the patch

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1 message; create patch operating code by merging and switching execution to
2 that patch operating code; and manager host is operable to initiate
3 transmission and address the patch message.

4 If we jump to slide 5, please -- now, as I mentioned, there are some
5 claim interpretation issues, we think, more so from what the Patent Owner
6 has raised from its Patent Owner response. From our perspective, the
7 Petitioner's perspective, as you can see on slide 5, Petitioner raised five
8 terms and phrases for interpretation.

9 If you turn to slide 6, you'll see from the institution decision, the
10 Board decided other than the two terms you see on slide 6, which is the
11 merging and the address limitations, no other terms expressly needed to
12 construction. And, I believe, that was mainly because Patent Owner did not
13 really raise any issues in its preliminary response with respect to claim
14 construction.

15 Turn to slide 7, however, we'll see that the Patent Owner, in its Patent
16 Owner response did not expressly or formally -- if I can say that -- raise any
17 claim construction definitions, but it did so through implications to its
18 arguments in trying to distinguish the prior art. And, realistically, I believe,
19 that one implied interpretation is found highlighted in bullet point 1 on slide
20 7, which, in a sense, the Patent Owner appears to ask for a construction to
21 change the operable to language for the second mobile unit such that if a
22 second unit has already been updated by a patch message, it can no longer be
23 a second mobile unit that is operable to do the things that are in the claim.

24 And along the same lines, we believe that the Patent Owner is really
25 raising some temporal aspects to the limitations in the claims that are not
26 there; and in order to get to where the Patent Owner wants to go, the Board

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