

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISH NETWORK L.L.C.,
AT&T SERVICES, INC., and DIRECTV, LLC,¹
Petitioner.

v.

BROADBAND iTV, INC.,
Patent Owner.

IPR2020-01267
Patent 10,028,026 B2

Record of Oral Hearing
Held: November 1, 2021

Before JEFFREY S. SMITH, JUSTIN T. ARBES, and DANIEL J.
GALLIGAN, *Administrative Patent Judges*.

¹ AT&T Services, Inc. and DIRECTV, LLC filed a motion for joinder and a petition in Case IPR2021-00556, which were granted, and, therefore, have been joined as petitioners in this proceeding.

IPR2020-01267
Patent 10,028,026 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Monday,
November 1, 2021, commencing at 10:00 a.m. EDT, via Video
Teleconference.

1 P-R-O-C-E-E-D-I-N-G-S

2 10:00 a.m.

3 JUDGE ARBES: Thank you. Good morning, everyone. This is the
4 oral hearing in Case IRP2020-01267, involving Patent 10,028,026. Can
5 Counsel please state your names for the record? Petitioner, Dish.

6 MR. ROBERTS: Good morning, Your Honors. This is Clem
7 Roberts from Orrick, Herrington & Sutcliffe, for the Petitioner. And with
8 me, also speaking today, will be Patrick Herman, who is also on the video.

9 JUDGE ARBES: Thank you. And do we have anyone on the line
10 for the joined Petitioners AT&T and DIRECTV?

11 Okay. Counsel for Patent Owner?

12 MR. LIN: My name is Hong Lin with the law firm of Feinberg Day.
13 I'm going to be joined today by Russell Tonkovich, also with Feinberg Day.
14 For Patent Owner.

15 JUDGE ARBES: Great, thank you. Per the Trial Hearing Order,
16 each party will have 60 minutes of total time to present arguments today.
17 Because some material has been filed under seal, the hearing will be divided
18 into two portions.

19 A public portion, where the public may be present, and then a
20 confidential portion involving only the parties and the Board. Per the party's
21 requests, Petitioner will have 35 minutes for the public portion and 25
22 minutes for the confidential portion.

23 And Patent Owner will have 30 minutes for the public portion and
24 30 minutes for the confidential portion.

1 In each portion the order of presentation will be, first, Petitioner will
2 present its case regarding the challenged claims and may reserve time for
3 rebuttal. Patent Owner may then respond to Petitioner's presentation and
4 may reserve time for sur-rebuttal.

5 Petitioner then may use any remaining time to respond to Patent
6 Owner's presentation. And finally, Patent Owner may use any of its
7 remaining time for a brief sur-rebuttal responding to Petitioner's rebuttal
8 arguments only.

9 A few reminders before we begin. We have received the parties'
10 demonstratives and are able to view them on our screen. To ensure that the
11 transcript is clear and everyone can follow along, please refer to your
12 demonstratives by slide number.

13 Please also keep your microphone muted when you are not speaking.
14 When it is your turn to argue, please speak slowly. And if you hear another
15 voice, please stop so that we don't talk over each other.

16 Also, if either party believes that the other party is presenting an
17 improper argument, we would ask you to please raise that during your
18 presentation rather than interrupting the other side at the time.

19 Finally, the parties should not refer to any sealed material during the
20 initial public portion of the hearing today. Any questions from the parties
21 before we begin?

22 MR. ROBERTS: No questions from Petitioner.

23 MR. LIN: No questions from Patent Owner.

24 JUDGE ARBES: Okay. Counsel for Petitioner, you may proceed.
25 And would you like to reserve time for rebuttal?

1 MR. ROBERTS: Yes, thank you so much, Your Honor. This is
2 Clem Roberts, I'll be arguing the 026 today. And if we're going to do them
3 in two sections, I assume I'm reserving just for the public portion initially.

4 JUDGE ARBES: It would be. Yes.

5 MR. ROBERTS: Okay. So of the 35 minutes I'd like to reserve ten
6 minutes for rebuttal, if that would be all right.

7 JUDGE ARBES: Okay.

8 MR. ROBERTS: Thank you, Your Honors. Okay. So on my slides
9 we're going to start with the public portion. Why don't we turn to Slide 40,
10 which provides an overview of what the claim mapping disputes are at issue
11 between the parties?

12 So rather than walk through every limitation, I thought what I would
13 try to do is focus on what the disputes are between the parties. And there is
14 really one dispute as to the independent claim, which deals with whether or
15 not the three layer template of Claim Limitation 1(b) is taught. And then
16 there are also some disputes with respect to some of the dependent claims, in
17 particular, 6, 11, 12 and 15.

18 If at any time the Board has any questions at all, it would be
19 extremely helpful to get them, I very much would like to respond to any
20 questions or issues you have. Hearing myself talk is not one of my chief
21 joys in life.

22 Okay. So if we can turn to Slide 42 please. The limitation that is
23 really in dispute in the independent claim is Limitation 1(b). And Limitation
24 1(b) has three elements to it. An (a), a (b) and a (c).

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