

1 PROCEEDINGS:

2 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
3 IPR2020-01267, U.S. PATENT NO. 10,028,026

4 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
5 IPR2020-01268, U.S. PATENT NO. 10,028,026

6 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
7 IPR2020-1280, U.S. PATENT NO. 9,998,791

8 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
9 IPR2020-1281, U.S. PATENT NO. 9,998,791

10 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
11 IPR2020-1332, U.S. PATENT NO. 10,506,269

12 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
13 IPR2020-1333, U.S. PATENT NO. 10,506,269

14 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
15 IPR2020-1359, U.S. PATENT NO. 9,648,388

16 DISH NETWORK, L.L.C. BROADBAND iTV, INC., CASE NO.
17 IPR2020-1360, U.S. PATENT NO. 9,648,388

18 Wednesday, November 25, 2020

19 3:00 p.m.

20 BEFORE:

21 JUDGES: ARBIS, SMITH AND GALLIGAN

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BBitV EX2030
Dish Network v. Broadband iTV
IPR2020-01268

1 A P P E A R A N C E S :

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17 REPORTED BY: JOSEPH HENRY

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1 ADMINISTRATIVE PATENT JUDGE ARBIS: Good
2 afternoon. This is Judge Arbis of the patent
3 trial and appeal board. I have with me on the
4 line, Judge Smith and Judge Galligan. This is
5 a conference call in a series of eight cases,
6 IPR2020-1267 through 1360. Do we have counsel
7 for petitioner on the line?

8 MR. HERMAN: Yes, Your Honor. This is
9 Patrick Herman from Orrick, Herrington &
10 Sutcliffe, here on behalf of petitioner. And
11 also on the line with me is Alyssa Caridis,
12 also from Orrick.

13 ADMINISTRATIVE PATENT JUDGE ARBIS: Okay.
14 Thank you. And counsel for patent owner?

15 MR. SPECHT: Yes, Your Honor. This is
16 Mike Specht. I'm with Sterne Kessler, counsel
17 for patent owner. And also with me is Richard
18 Bemben, who's also with Sterne Kessler, and
19 counsel for patent owner. I believe there also
20 should be a court reporter on. We arranged for
21 one.

22 ADMINISTRATIVE PATENT JUDGE ARBIS: Sure,
23 that's fine. And, Counsel, if you can please
24 file a copy of the transcript as an exhibit in
25 all eight proceedings once it's available.

1 MR. SPECHT: We will do that.

2 ADMINISTRATIVE PATENT JUDGE ARBIS: Okay.

3 I believe the call today was requested by
4 petitioner to seek authorization to file a
5 reply in these cases. So, counsel for
6 petitioner, would you like to explain the basis
7 for your request?

8 MR. HERMAN: Yes, Your Honor. In all
9 eight of the IPR proceedings, patent owner has
10 filed a preliminary response that dedicates a
11 substantial amount of space to Section 314,
12 discretionary denial issue, and petitioner
13 would like to file a short reply addressing an
14 aspect of the arguments that patent owner is
15 making. In particular, though, it's relating
16 to the scheduled trial date in the co-pending
17 Western District of Texas litigation. And it's
18 petitioner's view that good cause for a reply
19 that, because in the middle of November, the
20 federal circuit issues a decision that in
21 petitioner's view has bearing on the viability
22 of the currently scheduled trial date, and
23 whether trial will occur at all in the current
24 venue. And that that decision did not become
25 available until this November. It's not

1 something that petitioner could have addressed
2 in the petition when they were originally
3 filed. I'm happy to go more into what we'd
4 like to say, but I just don't want to stray too
5 far into the substance, unless Your Honors
6 would like to hear that.

7 ADMINISTRATIVE PATENT JUDGE ARBIS: Yes,
8 actually, if you can give us a little bit more
9 detail as to why you believe that decision
10 impacts the potential trial date or the
11 viability of having a trial in that venue.

12 MR. HERMAN: Sure. So, with respect to
13 the viability of the trial date, it's
14 petitioner's view that the decision essentially
15 held that it was error for the district court
16 to consider its early scheduled trial date in
17 determining whether it was appropriate to
18 transfer to another jurisdiction. And instead,
19 it should have been looking at the average time
20 to trial in that particular jurisdiction.
21 Particularly because that particular judge in
22 that particular jurisdiction does not have a
23 significant amount of experience in actually
24 making it to trial, so the more relevant
25 metric, according to the federal circuit, is

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