

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KAPSCH TRAFFICCOM IVHS INC. and KAPSCH
TRAFFICCOM HOLDING CORP.,
Petitioner,

v.

NEOLOGY, INC.,
Patent Owner.

Case IPR2015-00818 (Patent 8,237,568 B2)

Case IPR2015-00819 (Patent 8,325,044 B2)

Held: May 10, 2016

BEFORE: JUSTIN T. ARBES, GLENN J. PERRY, and
TREVOR M. JEFFERSON, Administrative Patent Judges.

The above-entitled matter came on for hearing on Tuesday, May 10, 2016, commencing at 1:01 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2015-00818 (Patent 8,237,568 B2)

Case IPR2015-00819 (Patent 8,325,044 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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

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3 JUDGE ARBES: This is the combined oral hearing in
4 two cases, Case IPR2015-00818 involving Patent 8,237,568 and
5 Case IPR2015-00819 involving Patent 8,325,044.

6 Can counsel please state your names for the record?

7 MR. LoCASCIO: Sure. Good afternoon, Your Honor.
8 Gregg LoCascio from Kirkland & Ellis on behalf of the Petitioner
9 Kapsch.

10 MR. GILLESPIE: Noel Gillespie on behalf of
11 Respondent Neology.

12 JUDGE ARBES: Thank you.

13 We will follow the same procedures as this morning.
14 Each party will have one hour of total time to present arguments
15 for both cases. The order of presentation will be Petitioner will
16 present its case first regarding the challenged claims in both cases
17 and may reserve time for rebuttal. Patent Owner then will
18 respond. Petitioner may then use any remaining time to respond
19 to Patent Owner's presentation.

20 Please do try to refer to your slides by slide number
21 when you can. We find that helpful in order to keep the record
22 clear. And also if either party believes that something that the
23 other party is arguing is objectionable, we ask you to please raise
24 that in your own presentation rather than interrupting the other
25 side.

1 Any questions from either party?

2 MR. LoCASCIO: No.

3 JUDGE ARBES: Okay. Petitioner, you may proceed.

4 MR. LoCASCIO: Thank you.

5 JUDGE ARBES: Would you like to reserve time for
6 rebuttal?

7 MR. LoCASCIO: I will, Your Honor. I'll reserve 20
8 minutes, please.

9 I've got some copies of the slides, Your Honor. May I
10 approach?

11 JUDGE ARBES: Thank you.

12 MR. LoCASCIO: Thank you.

13 May I proceed, Your Honor?

14 JUDGE ARBES: Yes.

15 MR. LoCASCIO: Thank you.

16 Good afternoon. Gregg LoCascio on behalf of the
17 Petitioners Kapsch. We're here today on two instituted petitions
18 for inter partes review with respect to certain claims of two
19 patents, the '044 patent and the '568 patent.

20 At base, these petitions turn on whether the cited art
21 anticipates or renders obvious a method or a system of doing a
22 very particular thing, and that is communicating between a reader
23 and an RFID tag or a transponder, as it's called, where the reader
24 sends two communications, a first communication and a second
25 communication to that tag. And in response, the tag then

1 validates a security key, and if it does, it provides a piece of
2 information back to the reader.

3 With respect to the '568, that information is slightly
4 narrower, it's vehicle identification as opposed to just generic
5 identifiers and so these challenged claims, as we'll see in a
6 second, we believe are invalid as instituted on the various pieces
7 of prior art.

8 So if we can go to the deck. Let's go to slide 4, please.

9 And so the way we have approached it similar to the
10 last presentation is to walk through, first, any issues around claim
11 construction. The only issue revolves around security key and
12 then the various references, the Hurta reference, the Snodgrass
13 reference. Both of those are anticipation of the '044 only based
14 on the institution and then an obviousness combination of
15 Snodgrass plus Slavin with respect to both the '568 and the '044.

16 So, Dave, move to slide 6.

17 So let's start off talking about what the security key is
18 and how it appears in these claims in the patents. And the
19 security key is validated by the tag to allow access to some
20 identifier from the memory. So what does that mean and the
21 panel has already construed it.

22 Next slide, please, Dave, slide 7.

23 The broadest reasonable interpretation, this was
24 proposed by Petitioners because this is a construction that
25 previously the Patent Owner themselves had put forth.

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