

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERICAN MEGATRENDS, INC.,
MICRO-STAR INTERNATIONAL CO., LTD,
MSI COMPUTER CORP.,
GIGA-BYTE TECHNOLOGY CO., LTD., and
G.B.T., INC.,
Petitioner

v.

KINGLITE HOLDINGS INC.,
Patent Owner

Case No. IPR2015-01197
Patent 6,487,656 B1

Before GLENN J. PERRY, TREVOR M. JEFFERSON, and
BRIAN J. McNAMARA, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and
37 C.F.R. § 42.73

BACKGROUND

On November 23, 2015, we instituted an *inter partes* review of claims 1, 2, 10, 11, 19, and 20 of U. S. Patent No. 6,487,656 B1 (“the ’656 Patent”). Paper 14 (“Dec. to Inst.”). Kinglite Holdings, Inc. (“Patent Owner”) filed a Patent Owner Response (Paper 20, “PO Resp.”), American Megatrends, Inc., Micro-Star International Co., Ltd, MSI Computer Corp., Giga-Byte Technology Co., Ltd., and G.B.T., INC. (collectively, “Petitioner”) filed a Petitioner Reply (Paper 27, “Pet. Reply”). Petitioner filed a Motion to Exclude (Paper 30, “Mot. To Exclude”), and Patent Owner filed an Opposition to Petitioner’s Motion to Exclude (Paper 35, “Opp. To Mot. To Exclude”). A transcript of an oral hearing held on August 16, 2016 (Paper 36, “Hr’g Tr.”) has been entered into the record.

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). We base our decision on the preponderance of the evidence. 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d).

Having reviewed the arguments of the parties and the supporting evidence, we conclude that Petitioner has demonstrated by a preponderance of the evidence that the challenged claims are unpatentable.

THE ’656 PATENT

The ’656 Patent describes a system and method to enable PC manufacturers and others to provide additional Basic Input/Output System (BIOS) functionalities while minimizing the impact on system BIOS code. Ex. 1001, col. 2, ll. 19–22. In the ’656 Patent, when an interface module is interfaced to the system BIOS and when a request to perform a task is received, device information associated with the task is received from the system BIOS. *Id.* at col. 7, ll. 50–53. The interface module translates the

system device information to provide translated information, which is then transferred to a corresponding module. *Id.* at col. 7, ll. 53–56. Patent Owner notes that information regarding system devices, such as processor performance data and memory size, is accessed and displayed on a screen before the operating system takes control. Prelim. Resp. 3

ILLUSTRATIVE CLAIM

Claim 1 is illustrative.

1. A method to provide functionalities to a system BIOS, comprising:
 - interfacing an interface module to the system BIOS;
 - receiving a request from the system BIOS to perform a task;
 - receiving the system device information associated with the task from system BIOS;
 - translating, by the interface module, the system device information to provide translated information; and
 - transferring the translated information to a corresponding module.

GROUND OF INSTITUTION

In our Decision to Institute, we instituted trial on the following challenge to patentability:

Claims 1, 2, 10, 11, 19, and 20 as obvious under 35 U.S.C. § 103(a) over the combination of Nunn¹ and AMIBIOS.²

¹ U.S. Patent No. 6,317,828 B1 issued Nov. 13, 2001. Ex. 1003

² AMIBIOS Technical Reference. American Megatrends, Inc. 1998 (“AMIBIOS”). Ex. 1005

CLAIM CONSTRUCTION

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their “broadest reasonable construction in light of the specification of the patent” in which they appear. 37 C.F.R. § 42.100(b); *see also Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2141–46 (2016). The terms also are generally given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

In our Decision to Institute, we applied the following constructions agreed to by the parties and apply these same constructions in this Decision:

| Term | Agreed Construction |
|-----------------------------------|--|
| A request . . . to perform a task | Soliciting action to be taken |
| Translating | Converting to another data format |
| Corresponding module | A software module associated with another module |

In our Decision to Institute, we applied the broadest reasonable interpretation to the following term that required construction:

Interface module. We construed this term to mean *program instructions used to translate information and to transfer the translated information.* Dec. to Inst. 9.

Patent Owner does not dispute our construction explicitly or propose an alternative construction, but in its arguments states that “the ‘interface module’ is a program allowing manufacturers to provide additional functionality to the system BIOS.” PO Resp. 7. We discussed the term “interface module” extensively in our Decision to Institute, noting that the

function of the interface module recited in independent claims 1, 11, and 19 is to provide translated information and that the claim structure is consistent with the disclosure in the Specification that: “[T]he interface module translates the system device information to provide translated information. The translated information is then transmitted to a corresponding module.” Dec. to Inst. 8 (citing Ex. 1001, col. 7, ll. 54–56). The ’656 Patent states that the interface module “enables various parties such as PC system manufacturers and motherboard manufacturers to provide additional system BIOS functionalities.” Ex. 1001, col. 7, ll. 46–49. Neither this disclosure nor the claims limit use of the interface module to manufacturers, as argued by Patent Owner. Thus, in this Decision, we apply the same construction we applied in the Decision to Institute.

OBJECTION TO EVIDENCE

The Patent Owner Response states that “[f]or the reasons set forth in Kinglite’s motion to exclude, there are evidentiary issues surrounding AMIBIOS reference as a prior art publications. Paper No. 17.” PO Resp. 1. On December 7, 2015, Patent Owner filed Patent Owner’s Objection to Evidence Pursuant to 37 C.F.R. § 42.64(a)(1). Paper 17 (“PO Obj. to Evid.”). In its Objection, “Patent Owner asks the Patent Trial and Appeal Board to exclude Exhibit 1005 for the reasons set forth below.” PO Obj. to Evid. 2. However, Patent Owner did not preserve its objection by filing a motion to exclude the evidence, as required by 37 C.F.R. 42.64(c). In order to facilitate resolution of objections by the parties themselves, our rules are structured to require the objection to identify the grounds for the objection with sufficient particularity to allow correction in the form of supplemental evidence that the party relying on the evidence may serve within 10 business

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