

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC, MICROSOFT CORPORATION,
and MICROSOFT MOBILE INC.,
Petitioners,

v.

KONINKLIJKE PHILIPS N.V.,
Patent Owner.

Case IPR2017-00447
Patent 7,529,806 B1

Record of Oral Hearing
Held: February 13, 2018

Before KEVIN F. TURNER, ROBERT J. WEINSCHENK, and
KAMRAN JIVANI, *Administrative Patent Judges*.

Case IPR2017 00447
Patent 7,529,806 B1

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The above-entitled matter came on for hearing on Tuesday, February 13, 2018, commencing at 2:30 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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JUDGE WEINSCHENK: Welcome back, everyone. This is our second hearing for today in IPR 2017-00447, Google, LLC, Microsoft Corporation, and Microsoft Mobile, Inc. versus Philips N.V. Let's start with appearances, who do we have for Petitioner?

MR. KRINSKY: Good afternoon again, Your Honor. For Petitioner David Krinsky from Williams and Connolly, LLP for Petitioner Google, LLC. With me at counsel table is Christopher Geyer, and I'd also like to recognize Kevin Hardy, Christopher Suarez, both of Williams and Connolly, and John Colgan of Google sitting in the back row. The one addition since this morning's proceedings we also have counsel from Microsoft here Christy McCullough is in the back row as well.

JUDGE WEINSCHENK: Great, thank you. And who do we have for Patent Owner?

MR. OLIVER: Good afternoon, Your Honor. Justin Oliver on behalf of the Patent Owner as well as Sean Walsh also of Fitzpatrick, Cella on behalf of Patent Owner.

JUDGE WEINSCHENK: Thank you. So, just to reiterate from the prior hearing as you can see Judge Turner and Judge Jivani are appearing remotely so please step up to the podium when you speak and please refer to slide numbers in your demonstratives so they can follow along. Each side has 30 minutes for their presentation, we'll start with Petitioner. Please let us know if you'd like to reserve any time for rebuttal.

1 MR. KRINSKY: Thank you, Your Honor. And I would, again, like
2 to reserve 10 minutes for rebuttal, please, if I may.

3 JUDGE WEINSCHENK: Sure.

4 MR. KRINSKY: May it please the Board. If we could go straight to
5 slide 3, the '806 patent is directed to a method of forming a media
6 presentation. From an text-based preferably an XML file, XML being a
7 limitation of some of the dependent claims like the one depicted in figure 2.
8 I brought up figure 2 of the patent here because I think it's helpful to
9 illustrate it. The method in question is one in which a control information
10 file, an XML file such as this one, is downloaded to the client device, parsed
11 on the client device, and then once the client device has done that parsing it
12 identifies which of various alternate files to play as part of the presentation
13 and then does so.

14 That's what's reflected in Claim 1, those are the limitations. I have it
15 on slide 4 for the Board's convenience but I don't know that we need to
16 belabor it. Jumping to slide 5, the SMIL specification teaches exactly the
17 same thing. SMIL is an XML-based markup language that allows
18 integrating a set of independent multimedia objects into a synchronized
19 multimedia presentation. That's reading directly from Exhibit 1002,
20 paragraph 63, that's Dr. Bulterman's declaration, but he's quoting there in the
21 abstract of the SMIL specification on page 2 of Exhibit 1003.

22 And if you look at a SMIL file, as SMILs control information files are
23 called side-by-side with one from the '806 patent, you'll see they're really the
24 same thing. If we could turn to slide 7 I brought up a comparison of figure 2
25 of the '806 patent to one example SMIL file from the SMIL specification,
26 page 4. You know, they're almost exactly the same format and they

1 certainly convey the same information. They're for the same purpose which
2 is to provide which alternate files to play, which files to make a presentation
3 out of to form a media presentation.

4 And in deposition, as we explained limitation by limitation in our
5 reply brief, Philip's expert, Dr. Porter in this one, opined and agreed that
6 virtually each one of these, that not every one of these is met. Certainly
7 we've established that each one of these limitations is met but the central
8 issue that Philips tees up in response is the question of whether SMIL is
9 really one teaching. And I think their criticism of SMIL is that in their view
10 it's a collection of examples.

11 If we could turn to slide 8, you see why that is wrong. The SMIL
12 specification is one single specification. It describes the features of a SMIL
13 player and that player has, in Dr. Porter's own words, is something that
14 would implement the language features that are depicted by each of the
15 specifications various examples. Dr. Bulterman, our expert, of course,
16 agrees. And this is one embodiment, the notion that each of these examples
17 ought to be read in isolation is simply wrong.

18 These are not different embodiments that the person of ordinary skill
19 needs to combine somehow. These are not multiple separate disclosures in
20 one reference that are not present as reading in the claim. These are
21 describing what a SMIL player does and I think perhaps the best example of
22 this comes from Exhibit 1003, that's the SMIL's specification on page 22. I
23 don't have it as a call-out here in the slide deck, but there is an example
24 given of two alternate audio files that are played based on alternate bit rates
25 and I think there's a criticism in the briefing of this example that, well, it's
26 disconnected from the other disclosures to which we point.

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