

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

KONINKLIJKE PHILIPS N.V.,  
Patent Owner.

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Case IPR2017-00447<sup>1</sup>  
Patent 7,529,806 B1

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

WEINSCHENK, *Administrative Patent Judge*.

FINAL WRITTEN DECISION  
*35 U.S.C. § 318(a)*

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<sup>1</sup> Microsoft Corporation and Microsoft Mobile Inc. (collectively, “Microsoft”) filed a petition in IPR2017-01754, and Microsoft has been joined to this case.

## I. INTRODUCTION

Google LLC (“Google”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–16 (“the challenged claims”) of U.S. Patent No. 7,529,806 B1 (Ex. 1001, “the ’806 patent”). Koninklijke Philips N.V. (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”) to the Petition. On June 8, 2017, we instituted an *inter partes* review of claims 1–11 of the ’806 patent on the following grounds:

Claims	Statutory Basis	Applied Reference(s)
1–7 and 9–11	35 U.S.C. § 102(b) <sup>2</sup>	Synchronized Multimedia Integration Language (SMIL) 1.0 Specification (June 15, 1998) (Ex. 1003, “SMIL 1.0”)
1–11	35 U.S.C. § 103(a)	SMIL 1.0
1–11	35 U.S.C. § 103(a)	SMIL 1.0 and Kien A. Hua et al., <i>2PSM: An Efficient Framework for Searching Video Information in a Limited-Bandwidth Environment</i> , 7:5 Multimedia Systems, 396–408 (Sept. 1999) (Ex. 1006, “Hua”)

Paper 7 (“Dec. on Inst.”), 20–21.

After institution, Microsoft Corporation and Microsoft Mobile Inc. (collectively, “Microsoft”) filed a petition in IPR2017-01754 requesting an *inter partes* review of the challenged claims of the ’806 patent and filed a motion requesting joinder to this case. Paper 15, 2. On November 29, 2017, we joined Microsoft to this case and terminated IPR2017-01754. *Id.* at 16–

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<sup>2</sup> The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, which was enacted on September 16, 2011, made amendments to 35 U.S.C. §§ 102, 103. AIA § 3(b), (c). Those amendments became effective eighteen months later on March 16, 2013. *Id.* § 3(n). Because the application from which the ’806 patent issued was filed before March 16, 2013, any citations herein to 35 U.S.C. §§ 102, 103 are to their pre-AIA versions.

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17; IPR2017-01754, Paper 17, 5. In this Decision, we refer to Google LLC, Microsoft Corporation, and Microsoft Mobile Inc. collectively as “Petitioner.”

Also, after institution, Patent Owner filed a Response (Paper 11, “PO Resp.”) to the Petition, and Petitioner filed a Reply (Paper 16, “Pet. Reply”) to the Response. An oral hearing was held on February 13, 2018, and a transcript of the hearing is included in the record. Paper 24 (“Tr.”).

On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018). As a result, we modified our Decision on Institution to include all the challenged claims and all the asserted grounds of unpatentability presented in the Petition. Paper 25, 2; Ex. 3001, 2. And, consistent with the parties’ agreement, we authorized each party to file an additional brief addressing the challenged claims and asserted grounds of unpatentability included in our modified Decision on Institution. Paper 28, 2–3. Specifically, Patent Owner filed a Supplemental Response (Paper 26, “PO Supp. Resp.”) to the Petition, and Petitioner filed a Supplemental Reply (Paper 27, “Pet. Supp. Reply”) to the Supplemental Response.

We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a). For the reasons set forth below, Petitioner has shown by a preponderance of the evidence that claims 1–11 of the ’806 patent are unpatentable, but Petitioner has not shown by a preponderance of the evidence that claims 12–16 are unpatentable.

A. *Related Proceedings*

The parties indicate that the '806 patent is the subject of the following cases in the United States District Court for the District of Delaware (“District Court”): *Koninklijke Philips N.V. v. ASUSTeK Computer Inc.*, No. 1:15-cv-01125 (D. Del.); *Koninklijke Philips N.V. v. HTC Corp.*, No. 1:15-cv-01126 (D. Del.); *Koninklijke Philips N.V. v. Visual Land, Inc.*, No. 1:15-cv-01127 (D. Del.); *Koninklijke Philips N.V. v. Southern Telecom, Inc.*, No. 1:15-cv-01128 (D. Del.); *Koninklijke Philips N.V. v. Double Power Technology, Inc.*, No. 1:15-cv-01130 (D. Del.); *Koninklijke Philips N.V. v. Yifang USA, Inc.*, No. 1:15-cv-01131 (D. Del.); and *Koninklijke Philips N.V. v. Acer Inc.*, No. 1:15-cv-01170 (D. Del.). Pet. 2–3; Paper 4, 2–3.

B. *The '806 Patent*

The '806 patent relates to communicating content between computer systems. Ex. 1001, 1:6–9. The '806 patent explains that prior systems for delivering content involved either streaming or downloading the content from a server to a client. *Id.* at 1:18–22, 1:42–44. According to the '806 patent, the streaming approach is undesirable because it uses proprietary technology that excludes third parties from developing custom server software or client applications. *Id.* at 1:31–41. The downloading approach also is undesirable because playback can only begin after the entire content file is downloaded. *Id.* at 1:51–58.

The '806 patent sought to improve on these prior systems by providing “an open architecture solution for content delivery in a download approach that allows for a low or negligible play-out latency.” *Id.* at 1:62–64. Specifically, the '806 patent describes splitting a content file into multiple parts, with each part requiring a relatively short download time. *Id.*

at 1:65–66. The client device downloads the first part of the content file and begins playback while it downloads the other parts of the content file. *Id.* at 1:67–2:12. As a result, the playback delay is determined by the download time of just the first part of the content file, rather than the entire content file. *Id.* at 1:67–2:1.

C. *Illustrative Claim*

Claims 1, 9, and 12 are independent. Claim 1 is reproduced below.

1. A method of, at a client device, forming a media presentation from multiple related files, including a control information file, stored on one or more server computers within a computer network, the method comprising acts of:

downloading the control information file to the client device;

the client device parsing the control information file; and  
based on parsing of the control information file, the client device:

identifying multiple alternative files [sic] corresponding to a given segment of the media presentation,

determining which files of the multiple alternative files to retrieve based on system restraints;

retrieving the determined file of the multiple alternative files to begin a media presentation, wherein if the determined file is one of a plurality of files required for the media presentation, the method further comprises acts of:

concurrent with the media presentation, retrieving a next file; and

using content of the next file to continue the media presentation.

Ex. 1001, 5:45–67.

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