

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ROVI GUIDES, INC.,
Patent Owner.

Case IPR2017-00941
Patent 9,172,987 B2

Oral Hearing Held:
August 23, 2018

Before KARL D. EASTHOM, BARBARA A. BENOIT, and STACY B.
MARGOLIES, *Administrative Patent Judges*.

Case IPR2017-00941
Patent 9,172,987 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Thursday,
August 23, 2018, commencing at 1:00 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

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JUDGE BENOIT: Good afternoon. We are convened for supplemental oral argument for IPR2017-00941 which challenges U.S. patent 9,172,987. I'm Judge Benoit. With me in Alexandria is Judge Margolies. And on the phone, as you heard, is Judge Easthom.

On June 6, 2018, we previously heard argument concerning grounds instituted in our September 11, 2017 decision to institute. Today we will hear oral argument concerning grounds added pursuant to our post-SAS orders, papers 32 and 38. We would like to thank both parties for their professionalism and courtesy in establishing a schedule and executing it so these grounds could be well-briefed by the parties. The panel plans to issue a final written decision in this case as well as IPR2017-00939, which also challenges the same patent, the same day and by the 12-month statutory deadline of September 11, 2018.

With that preliminary information, I'll start with appearances by petitioner.

MR. MEEKER: Your Honor, Fred Meeker with the law firm of Banner & Witcoff representing Comcast Cable Communications, LLC. With me are John Curry, who will be arguing the motion to exclude, as well as Adam Banes and Jordan Bodner. And thank you so much, Your Honor, for granting us this supplemental hearing. We very much appreciate that.

JUDGE BENOIT: You are welcome. Patent owner?

1 MR. ROWLAND: Good afternoon, Your Honors. Mark Rowland
2 of Ropes & Gray on behalf of the patent owner. With me today is Steve
3 Pepe and Scott Taylor. Scott Taylor will be arguing on our behalf. This is
4 his first argument before the Board.

5 JUDGE BENOIT: Welcome. Each side will have 45 minutes to
6 argue. Petitioner has the ultimate burden of establishing unpatentability and
7 will proceed first to argue its case and may reserve rebuttal time. If patent
8 owner argues its motion to exclude, patent owner also may reserve rebuttal
9 time but only to respond to any arguments petitioner makes regarding patent
10 owner's motion to exude.

11 Also, as you know, the Patent Office has had problems in the last
12 week with their information technology systems, and as far as we are aware,
13 neither party filed objections to the other parties' demonstratives; is that
14 correct? For the record, petitioner?

15 MR. MEEKER: Correct, Your Honor.

16 JUDGE BENOIT: Patent owner?

17 MR. ROWLAND: Yes, Your Honor.

18 JUDGE BENOIT: Thank you for making the record clear. Now,
19 with all those preliminaries without of the way, petitioner you may begin
20 when ready.

21 MR. MEEKER: Thank you, Your Honor. We would like to
22 reserve 15 minutes for rebuttal time. And I have copies to hand up to the
23 Board.

24 JUDGE BENOIT: Excellent. Thank you.

1 MR. MEEKER: And for Judge Easthom --

2 JUDGE BENOIT: I'll take it and we'll get it to him.

3 MR. MEEKER: Thank you so much.

4 JUDGE BENOIT: And he has a copy of the demonstratives
5 already.

6 MR. MEEKER: May it please the Board, again for the record,
7 Fred Meeker with the law firm of Banner & Witcoff representing Comcast
8 Cable Communications LLC. Turning to slide 4 --

9 JUDGE BENOIT: Before you get into your slides, Mr. Meeker, I
10 wanted to ask a procedural issue question for you. And I'll also ask the
11 patent owner the same one. The supplemental briefing that both parties
12 addressed dependent claim 11 which has the same limitation as dependent
13 claim 3 that was not included in the Kamada/Pedrizetti ground, is there any
14 reason that we should not apply the briefing that both parties presented with
15 regard to claim 11 to claim 3?

16 MR. MEEKER: I think procedurally under the APA -- I don't
17 know the answer to that question. They are equivalent claims. They have
18 made a whole bunch of new arguments that they didn't make previously.
19 They have had a lot more page count. So I haven't really thought of the
20 procedural aspects of that, Your Honor.

21 JUDGE BENOIT: Thank you.

22 MR. MEEKER: Proceeding to slide 4, slide 4 shows what issues
23 are undisputed. With respect to the Kamada grounds, patent owner has not
24 disputed that Kamada and Wang teach each and every limitations of claim 7

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