UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION, Petitioner,

v.

IRON OAK TECHNOLOGIES, LLC, Patent Owner.

Case IPR2019-00106 Patent 5,699,275

Record of Oral Hearing Held: November 4, 2019

Before SALLY C. MEDLEY, PATRICK R. SCANLON and ARTHUR M. PESLAK, *Administrative Patent Judges*.



APPEARANCES:

ON BEHALF OF THE PETITIONER:

JOSEPH MICALLEF, ESQ. Sidley Austin LLP 1501 K Street, N.W. Washington, D.C. 20005

ON BEHALF OF THE PATENT OWNER:

ALBERT DEAVER, ESQ. McAughan Deaver PLLC 550 Westcott Drive, #375 Houston, Texas 77007

The above-entitled matter came on for hearing on Monday, November 4, 2019, commencing at 2:45 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, VA, 22314.



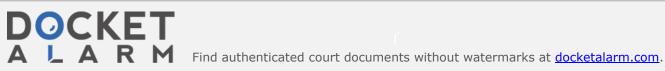
1	PROCEEDINGS
2	
3	BAILIFF: All rise.
4	JUDGE MEDLEY: We're on the record. Good afternoon. This is
5	the hearing for IPR2019-00106 involving U.S. Patent No. 5,699,275. At this
6	time we'd like the parties to please introduce Counsel for the record,
7	beginning with Petitioner.
8	MR. MICALLEF: Thank you, Your Honors. Good afternoon; Joe
9	Micallef with Sidley Austin for Petitioner, Microsoft Corporation. With me
10	is my partner, Scott Border (phonetic), and my client, Mark Taylor from
11	Microsoft.
12	JUDGE MEDLEY: Thank you; for Patent Owner?
13	MR. DEAVER: Good afternoon, Your Honors, Al Deaver for Patent
14	Owner.
15	JUDGE MEDLEY: Okay. Each party has 30 minutes, total time, for
16	their arguments. Petitioner, you'll proceed first and you can reserve
17	argument time if you'd like, and then Patent Owner you'll respond to
18	Petitioner's presentation. You may reserve argument time for sur-rebuttal.
19	Petitioner, do you wish to reserve some of your time?
20	MR. MICALLEF: Yes, Your Honor, I'd like to reserve 10 minutes;
21	thank you.
22	JUDGE MEDLEY: Patent Owner?
23	MR. DEAVER: Fifteen, please.
24	JUDGE MEDLEY: So, as a reminder, please refer to the slide
25	number so that we may follow along. Also, please speak into the
26	microphone at the podium so that we all may hear. We'd like to remind the



1	parties that this hearing is open to the public and the transcript will be
2	entered into the public record of the proceeding. Petitioner may begin.
3	MR. MICALLEF: Thank you, Your Honors. Once again, this is Joe
4	Micallef for Petitioner, Microsoft. Your Honors, I know you just had a
5	hearing on this same patent, this same claim, this same prior art reference;
6	and I've looked at the papers in that proceeding and it appears to be the
7	reading, the analysis on that Sugita prior art reference is very similar, if not
8	the same. So, I'm going to try not to go over the things that you just spent
9	an hour or so talking about; but I do want to hit a couple of high level points
10	in this proceeding. Now, I'd like to start with ours
11	JUDGE MEDLEY: Keep in mind though that the transcript for that
12	other proceeding will not be going into the record of the '106 case.
13	MR. MICALLEF: I certainly understand that, Your Honor.
14	JUDGE MEDLEY: So, if you want to say something, you should say
15	it here.
16	MR. MICALLEF: I will definitely do that; thank you. I want to start
17	with slide 17 of our demonstratives. And Patent Owner's argument here
18	renders down to what, I think, it renders down to in the other proceeding as
19	well, a request, a least implicit request, that the Board read a temporal
20	limitation into the claim. What's sort of interesting here is the temporal
21	limitation that Patent Owner has asked to be read in, at least in its Patent
22	Owner response to the sur-reply is and it's captured, I think, up there on
23	our slide number 17, where we have a quote from the Patent Owner response
24	at page 7 it's a temporal limitation relating to the functionality of the
25	mobile units of the claim.



1	Now, I want to start to make two points about that, that we made in
2	our papers, and that is they've never justified reading that kind of limitation
3	in. They've never explained why the ordinary meaning of the claim
4	language requires that, or why there's something in the specification that
5	imposes that spin on it without limitation or pointed to anything in the
6	prosecution history or the extrinsic record; they've just said it requires it.
7	We've pointed out and by not justifying it, I think they waited, because we
8	all know what the law is under Phillips, they have to, if they're asking for
9	something other than the ordinary meaning, they're going to have to justify
10	it on the extrinsic record.
11	I think we've pointed out in our brief that this kind of operability
12	language is generally understood as its ordinary meaning includes no
13	temporal limitation, at least not in the context of an apparatus claim, like we
14	have here. Obviously, I don't know what Counsel for Patent Owner's going
15	to say when he stands up here; but I did here earlier this afternoon that
16	Patent Owner now has a different temporal limitation that they would like to
17	have read into this claim, at least in the other proceeding.
18	And that temporal limitation is a temporal limitation that relates to the
19	functionality of the manager host which, of course, is a different component
20	of the claim. And that temporal limitation has also not been justified in any
21	of the filings here. I heard it was supposedly justified by the portion of the
22	claim construction, the phraseology operable to decide; but once again,
23	under Parker Vision, that kind of operability language in its ordinary
24	meaning doesn't have any temporal limitation.
25	I heard him point to passages in the Spec., column 2, lines 23 to 24;
26	column 4 lines 12 to 15 of the '275 Patent. I studied that at the break, and



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