

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

Before the Honorable MaryJoan McNamara

Administrative Law Judge

In the Matter of:)
) Investigation No.
CERTAIN DIGITAL VIDEO) 337-TA-1158
RECEIVERS, BROADBAND GATEWAYS,)
AND RELATED HARDWARE AND)
SOFTWARE COMPONENTS)

United States

International Trade Commission

Hearing Room A

500 E Street, SW

Washington, D.C.

Tuesday, January 28, 2020

ADMINISTRATIVE HEARING

Volume VI

The parties met, pursuant to notice of the
Administrative Law Judge, at 9:30 a.m.

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4 Inc.:

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24 *** Index appears at end of transcript ***

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1 P R O C E E D I N G S

2 O P E N S E S S I O N

3 (In session at 9:30 a.m.)

4 JUDGE McNAMARA: Good morning, everyone.
5 Please be seated.

6 So I have the time in front of me. Do we have
7 any issues?

8 MR. DAVID: Good morning, Your Honor
9 Michael David for Comcast. We have no issues on the
10 time. We agree. We only note that for total on the
11 record time Rovi has used about two and a half more
12 hours on the record than Comcast. We have conferred
13 with Rovi. They have budgeted for about two hours of
14 on the record time today. If they are held to that,
15 we don't think there are any issues completing the
16 case today. We just want to make sure Comcast has
17 rebuttal time to put on its case, if necessary.

18 JUDGE McNAMARA: Understood. Ms.
19 Engelmann?

20 MS. ENGELMANN: Yes, that's our
21 understanding as well. And I believe that we spoke
22 about having a little shorter lunch today in order to
23 accommodate the testimony.

24 JUDGE McNAMARA: Sure. If there's any
25 other accommodation that we need, let me know as

1 MR. RAMANI: Good afternoon, Your Honor.
2 There are some evidentiary issues that the parties
3 are resolving, and we expect that those will all be
4 worked out before the record closes. However,
5 subject to that, Comcast rests.

6 JUDGE McNAMARA: All right. Thank you
7 very much.

8 MR. KAMPRATH: Good morning, Your Honor.
9 Richard Kamprath for Rovi. And with that we would
10 like to begin our rebuttal case, Your Honor.

11 JUDGE McNAMARA: Very good. Thank you.

12 MR. KAMPRATH: We call Dr. Jones to the
13 stand.

14 MARK JONES, Ph.D.,
15 having been previously duly sworn and/or
16 affirmed on his oath, was thereafter examined and
17 testified further as follows:

18 JUDGE McNAMARA: Dr. Jones, you're still
19 under oath so you can just be seated.

20 THE WITNESS: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. KAMPRATH:

23 **Q. Good morning, Dr. Jones.**

24 JUDGE McNAMARA: Are deck slides in here,
25 Mr. Kamprath, and if so --

1 Dr. Chatterjee put it, right?

2 A. Yes.

3 Q. But in your analysis in this investigation
4 you did not identify how any circuit that performs
5 the task of receiving a MoCA frame operates, true?

6 A. Beyond the MoCA standard, no.

7 Q. Let's put up Dr. Jones' deposition -- his
8 deposition was taken October 19th, 2019 -- page 225,
9 lines 12-15.

10 "Question. Have you identified how any
11 circuit that performs the task of receiving a MoCA
12 frame operates?

13 "Answer. No."

14 You were asked that question and gave that
15 answer, Dr. Jones?

16 A. Yes.

17 MR. RAMANI: Thank you, Your Honor. Pass
18 the witness.

19 JUDGE McNAMARA: Thank you very much.

20 Mr. Kamprath?

21 REDIRECT EXAMINATION

22 BY MR. KAMPRATH:

23 Q. Dr. Jones, I want to start out on the last
24 point and then go back to the first point, so kind of
25 opposite of what we just heard.

1 I want to ask you first, counsel made a big
2 deal about frames and packets and the distinction
3 between the two. Do you recall that?

4 A. I do.

5 Q. May I have Dr. Chatterjee's opening
6 report, page 163, paragraph 304?

7 MR. RAMANI: Your Honor, I object. This
8 is use of Dr. Chatterjee's report on invalidity,
9 which is out of the case.

10 MR. KAMPATH: It is his report on
11 invalidity, but it goes to this exact point that
12 counsel just made, and it's contrary to the point
13 counsel was making. It's Dr. Chatterjee's testimony
14 in his report.

15 MR. RAMANI: If they wanted to make the
16 point, Your Honor, they could have crossed
17 Dr. Chatterjee on it, if it's a claim scope question.

18 JUDGE McNAMARA: Well, it may be, but the
19 point of it is that, as a lay person, I want to hear
20 that provisionally, and I recognize that you have an
21 objection to it, and it may require some briefing.
22 I'll let you know whether it falls within my scope
23 motion to strike requirements, but I want to hear
24 this provisionally.

25 MR. RAMANI: Thank you, Your Honor.

1 JUDGE McNAMARA: Thank you, Mr. Ramani.

2 Q. May I please have page 163, paragraph 304
3 of Dr. Chatterjee's opening invalidity report. Thank
4 you.

5 Dr. Jones, do you see paragraph 304, the
6 second sentence says:

7 That although packets and frames
8 refer to concepts and means of
9 transporting data, a POSITA would
10 understand that either can be used
11 for transmitting information in a
12 network as claimed in the '855
13 patent, such that disclosures as to
14 one effectively disclose the other
15 as well.

16 Do you see that?

17 A. I do.

18 Q. Do you agree with Dr. Chatterjee's expert
19 report where he states that disclosures of packets
20 are the same or effectively disclosed -- let me start
21 that over.

22 Do you agree with Dr. Chatterjee's expert
23 report at paragraph 304, Dr. Jones, the second
24 sentence?

25 A. I think it would depend on the context.

1 People use the terms "packet" and "frames" often to
2 refer to the same thing. Sometimes people make
3 distinctions. It depends on the context.

4 So I would say, at a high level, yes, they are
5 often used interchangeably, but I don't know that I
6 could agree with a complete blanket statement. I
7 would really have to see more.

8 Q. Dr. Jones, I want to now ask you about the
9 HTTP Get as a data frame.

10 Can we see claim 59, please?

11 Dr. Jones, claim 59 of the '855 patent states:

12 Framing data of each of the selected
13 channels into a frame that includes
14 header section and a data section,
15 wherein the header section includes
16 at least one of, and it goes on from
17 there.

18 Do you see that?

19 A. I do.

20 Q. Claim 59 explicitly requires a frame that
21 has a header section and data section, right?

22 A. Yes.

23 Q. This is a dependent claim?

24 A. Yes.

25 Q. And it's dependent on -- claim 59 is

1 dependent on what claim?

2 A. Claim 53.

3 Q. Can we see claim 53, please?

4 And I want to concentrate on the receiving
5 from a plurality of clients limitation, please.

6 Dr. Jones, we see here on the third line it
7 says, identifying a data frame at one of the specific
8 time intervals. Do you see that?

9 A. I do.

10 Q. Is there a requirement in claim 53 that
11 the data frame that is identified contain a header
12 section and a body or payload section?

13 A. No.

14 MR. KAMPRATH: Thank you, Your Honor.

15 JUDGE McNAMARA: Thank you. Mr. Ramani?

16 MR. RAMANI: The first thing I'm going to
17 say that Dr. Jones may be happy with, Your Honor, I
18 have no further questions.

19 JUDGE McNAMARA: Oh. Thank you very much.

20 All right. Dr. Jones, you may step down. And
21 I gather --

22 THE WITNESS: I just dropped three million
23 binders.

24 JUDGE McNAMARA: Okay. It didn't fall on
25 you. I think that's it for today, so I gather that