

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC and LG ELECTRONICS U.S.A., INC., and
VIZIO, INC.
Petitioner,

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,
Patent Owner.

IPR2024-00354¹
Patent 10,419,805 B2

Record of Oral Hearing
Held: February 20, 2025

Before ST. JOHN COURTENAY III, ROBERT L. KINDER, and
SHARON FENICK, *Administrative Patent Judges*.

¹ VIZIO, Inc. filed a petition in IPR2024-00699 and was joined as a petitioner in an understudy role in this proceeding. Paper 14.

IPR2024-00354
Patent 10,419,805 B2

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P R O C E E D I N G S

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JUDGE COURTENAY: So this is to hear the IPR hearing for LG Electronics v. Multimedia Technologies, and the IPR that is under review is IPR2024-00354, and involved patent is 10,419,805 B2. And there is also a Petitioner that's joined as an understudy Petitioner, and that is Vizio, and that IPR is 2024-00699.

Okay. So counsel for each side, can you identify yourselves? Who is going to be arguing today? Petitioner, you can go first.

MR. MCCOMBS: Yes, Your Honors. Good afternoon. This is David McCombs on behalf of LG Electronics and LG Electronics U.S.A. With me, are my partners, Jon Bowser and Gregory Huh. Jon Bowser will be providing the presentation today.

JUDGE COURTENAY: Okay. Can you spell his last name? Bowser? Did you -- is it Bowser?

MR. MCCOMBS: Bowser. B as in Boy, O-W-S-E-R. Jonathan Bowser.

JUDGE COURTENAY: Okay. Mr. Bowser. Mr. Bowser. Okay. B-O-W-S-E-R.

MR. BOWSER: That's correct.

JUDGE COURTENAY: Okay. There's no S on the end, right? Okay. All right. Attorney for Patent Owner, can you identify yourself, please?

MR. YANG: Good afternoon, Your Honor. This is Minghui Yang for Patent Owner, Multimedia. With me is my colleague, Steve Schreiner. I

1 will be presenting.

2 JUDGE COURTENAY: And your last name, can you spell it,
3 please?

4 MR. YANG: Sure. It's Y-A-N-G.

5 JUDGE COURTENAY: Y-A-N-G. Do I pronounce that Wang?

6 MR. YANG: Yang.

7 JUDGE COURTENAY: Yang. Yang. Okay. Yang, right? All
8 right. Can each party confirm that there's no confidential business
9 information in this case. The hearing is open to the public. We have a
10 public access line. Petitioner, can you confirm?

11 MR. BOWSER: Confirmed.

12 MR. MCCOMBS: Yes. Thank you.

13 JUDGE COURTENAY: Patent Owner, can you confirm?

14 MR. YANG: Yes, Your Honor.

15 JUDGE COURTENAY: Okay. I'm going to briefly go over the
16 schedule. We do have a predefined schedule. It's maybe not a uniform
17 schedule, so it is in a predefined format. Maybe not a uniform format. Each
18 side has a total of 45 minutes of argument time, and you can reserve any
19 portion of that, for the Petitioner, for your rebuttal, and for the Patent Owner,
20 for the surrebuttal. If you have any technical issue, like if you have a drop
21 out of your video, your laptop freezes, you should've been provided with a
22 backup voice line that you can call back in. So if anyone drops off, we'll
23 wait a couple minutes and wait for you reconnect via the voice line so we
24 can continue the hearing.

25 Please try to mute your microphone when you're not speaking, and

1 it helps us -- you know, we're trying -- we're judges, we're trying to identify
2 the dispositive issues in this case, so if you can give us your best arguments,
3 your strongest arguments, the arguments that are best supported by objective
4 evidence, so we can basically identify the dispositive issues in your case. So
5 it helps us get right to the issue to decide your case. Okay. We can start.

6 Petitioner, you can begin any time you're ready, Mr. Bowser.

7 MR. BOWSER: Yes. My name is Jonathan Bowser, and I am
8 counsel for Petitioner. I would like to reserve 20 minutes for rebuttal, Your
9 Honors.

10 JUDGE COURTENAY: Okay.

11 MR. BOWSER: And before I begin, if I may, I would like to share
12 my slides, if that's okay. And I know that you have them, but I just feel like
13 we could all see everything on the same screen. Give me one moment.

14 JUDGE COURTENAY: We do have a copy of your
15 demonstrative that we can view directly. All three judges have a copy of it,
16 but you prefer to share your screen?

17 MR. BOWSER: Yes, please.

18 JUDGE COURTENAY: Okay. I can see.

19 MR. BOWSER: Okay. Can everybody see?

20 JUDGE COURTENAY: Yes. It's not very clear --

21 MR. BOWSER: Okay.

22 JUDGE COURTENAY: -- but we can see it.

23 MR. BOWSER: Sorry. Oh, that's as big as I can make it. Give
24 me a second. All right, okay. All right, so Your Honors, again, this is
25 Jonathan Bowser. I want to start with an overview of the '805 patent. And

1 on the left-hand side, we can see Figure 14, and Figure 14 has what's called
2 a data service. It's specifically referred to as a data management 14. And
3 what I've highlighted in blue in the middle of Figure 14 are three sub-
4 services.

5 So there's a video on demand sub-service or VOD, there's an EPG
6 subservice, electronic programming guide, often, you know, referred to TV,
7 and then there's a media subservice. And in the first block quote in the -- on
8 the right-hand side of Figure 3 -- sorry, Slide 3 -- you can see subservice.
9 And then in the middle quote, you can see there's this concept of metadata,
10 and it's important to keep in mind today that when we're referring to data in
11 the claims, it's referring to the specific metadata. And then in the bottom
12 block quote, we can see there -- again, there was three subservices.

13 So there's no definition of a subservice in the '805 patent. The
14 specification does mention that it -- there for managing media and metadata.
15 Dr. Lippman, which is Petitioner's expert, explained that the subservices are
16 a function or pathway for receiving content and associated metadata.

17 I want to turn next to Slide 4, and right here on Slide 4, we can see
18 that this is a reproduction of Claim 1. There are three independent claims at
19 issue in this particular case. They're all very similar to Claim 1. The parties
20 have focused on Claim 1. There's Claim 10 and Claim 17, but all -- again,
21 the parties have focused on Claim 1.

22 I have highlighted two particular limitations, and these are the
23 limitations that the parties have been briefing. There's Limitation 1.2.1 and
24 1.2.4, and the parties have both provided constructions for the terms that are
25 underlined in red, which is predefined format and uniform format.

1 I'm going to move to Slide 7, and I want to focus -- before I get
2 into Limitation 1.2.1, I want -- this is for level setting purposes, okay?
3 Because Limitation 1.2.1 uses the term “subservices”, and we've been very
4 clear from the outset that Melnychenko teaches the plurality of subservices.
5 Melnychenko, just like the '805 patent, is concerned with presenting like a
6 better user interface for the user's television receiving different types of
7 content.

8 So we can see -- and I've used different underlining colors to
9 show -- for example, the red indicates this is an EPG subservice. You can
10 see that in the claim in 1.1.2. It's red. And then in the left-hand portion in
11 paragraph 63, the lower portion of Slide 7, we can see Melnychenko clearly
12 teaches that same type of content. We've got the media subservice in the
13 claim, which is in green. And Melnychenko also has media content. And in
14 purple underlining, we've got on demand, and as you can see, Melnychenko
15 teaches the same types of content. And then in paragraph 64, we've got the
16 same concept in the '805 patent, which is the fact that there's content and
17 then there's also metadata.

18 So Melnychenko provides the same -- Melnychenko teaches the
19 subservices, and I just want to make clear that Patent Owner has not
20 contested the fact that Melnychenko teaches the specific services. And I
21 also just want to be clear here, too, that we've cited paragraphs 63 and 64.
22 You can also see the same type of information on paragraphs 32 and 34 of
23 Melnychenko.

24 Moving to Slide 8, this is an illustration that shows exactly that
25 Melnychenko teaches the same types of subservices, okay? We see in

1 Figure 1 in Melnychenko at the bottom portion of Slide 8, Melnychenko has
2 an intuitive user interface that provides the user with an interface and
3 information for three types of content. A couple examples with the
4 channels, FOX, ABC, NBC. Right now, it's highlighted as The Simpsons at
5 7 p.m.

6 So you can see in the upper portion there, that's all information
7 that's metadata. So it's The Simpsons from 7:00 to 7:30 p.m., the title of the
8 program, Camp Crusty, so this is all metadata. The same thing we can see,
9 there's VOD content -- HBO in this specific example. HBO on demand,
10 VOD. And then we've got media content, which is streaming media, in this
11 particular example, which is CNN. All right.

12 I want to move to Slide 9. This is a dispositive issue for the
13 parties. We have in the upper left-hand corner on Slide 9, reproduced
14 Limitations 1.2.1 and 1.2.2, and I've highlighted and underlined the term
15 "predefined format". Predefined format, you can see very clearly, is in a
16 singular form. And the '805 patent, I've reproduced the two portions in the
17 '805 patent that specifically describe the term "predefined format". And the
18 most important is the first one. It's in Column 30, lines 1 to 5. And in there,
19 it's very clear that predefined format refers to the order of the data. It's
20 important to keep in mind -- it's the order of the data. And that makes sense
21 because then the TV can understand how to process it because it's in a
22 certain order.

23 Now, in the bottom portion, we see this is with respect to process
24 1600 and if you're looking at the '805 patent, this is with regard to the
25 flowchart in Figure 16, and this is specifically step 1630. There's the

1 predefined format, and then it's organized. And this, in a nutshell, is what
2 Limitation 1.2.1 is about.

3 So we see in the bottom portion, Dr. Lippman has indicated -- and
4 again, Dr. Lippman is Petitioner's expert -- Dr. Lippman has explained that
5 the term predefined format based on these two passages, it means that the
6 order of the data or the metadata. And I should also point out that these are
7 the only two passages in the '805 patent that specifically describe the term
8 “predefined format”. I mean, just to be clear, the summary, the
9 specification -- sorry -- the summary, the invention section of the
10 specification refers to predefined format, but it just uses the claim language,
11 and it mirrors the claim language. It doesn't provide any further input.

12 So again, we have the -- how the term is used in this specification
13 is very clear. It's about the order of the data. All right. I want to move to
14 Slide 10 and before I get into Chen, I want to just give an overview as to the
15 challenge in the petition. Now, we talked earlier, just a few minutes ago,
16 about how Melnychenko teaches the specific subservices -- the subservices
17 that are recited in the claims. Melnychenko does not, however, specifically
18 describe how the metadata from different sources is formatted.

19 And so in the petition -- and we've been very clear throughout --
20 that what a POSITA would look for is the conventional implementation
21 details as to how you would organize metadata from different sources. And
22 we've got an example here in Chen. So what I have on Slide 10 is Figure 3
23 of Chen on the left-hand side, Limitation 1.2.1 on the top, and then
24 paragraph 20, which describes what's going on in Figure 3.

25 Now, I want to point out, before I get started talking about the

1 specific features of Figure 3, I want to point out the third line of paragraph
2 20 where it starts, these are the examples of the signal source terminals.
3 And so we've got -- we're talking about example content that's coming in.
4 Now, what's shown in Figure 3 is -- the examples that are given are MP3,
5 JPEG, and MPEG4. And there is a predefined format for each of those
6 metadata tables.

7 So what happens is the metadata is received, and it's then
8 organized into a metadata table. There are three metadata tables given here:
9 30, paragraph 1; 30 paragraph -- I'm sorry -- 30(1), 30(2), and 30(3). Three
10 different metadata tables, and you can see that every metadata table has the
11 same order -- filename, author, type of content, resolution, language, bitrate,
12 parental control, and file size.

13 There is a specific order specified, and we know that because Chen
14 says in the first highlighted portion that the three metadata tables comply
15 with a specific table. And all the fields -- you can see that some fields are
16 populated, and some are not, and we know the fields that are populated
17 because they have the number symbol three times. And that you can see at
18 the bottom of paragraph 20 of Chen.

19 But in each instance, the specific table has the same order of data.
20 I want to turn to Slide 11 and here, we have Dr. Lippman. He's identified
21 the predefined format. So again, Dr. Lippman is Petitioner's expert, and Dr.
22 Lippman has said that each of the metadata tables is organized in a
23 predefined format because the relevant fields in the columns are organized in
24 the following order. We went over these. Filename, number one; two,
25 author; three, type of content. Every single metadata table has a specific

1 order, and that's important to keep in mind, too.

2 And the reason that Chen does this, and I think it's instructive to
3 consider that it's not on the slide, Your Honors, but if you think -- if you
4 look at paragraph 17 of Chen and it refers to the fact that the goal is to have
5 a more intuitive user interface, just like the '805 patent -- and the way that it
6 does this is by having a specific table where they're all the same. You can
7 have one database, and I think it's helpful, so if you look at the middle of
8 paragraph 17, "The invention is able to design a user interface operable to
9 plural types of media data, instead of designing various user interfaces
10 according to the types of the media data." And where this comes from in
11 terms of context, if you look at paragraph 6 of Chen, it says that the
12 conventional method of managing metadata stores different types of media
13 data in a corresponding database.

14 So what Chen's contribution is -- so like the conventional art, you
15 would have different databases for different metadata, but now we have one
16 database, a simpler user interface, and a simpler set top box because it only
17 needs one database. And the reason why is because they're all organized
18 according to a specific order.

19 I want to next move to an argument that the Patent Owner has
20 raised that somehow Chen is limited to specific file types. You know, what
21 Chen -- Patent Owner is trying to essentially recast the arguments in the
22 petition in a way that's very favorable to them, by focusing solely on the fact
23 that -- let me go back to Slide 10 -- that these are file types -- MP3, JPEG,
24 and MPEG4. Patent Owner's arguments really hinge on this concept that
25 they're only file types.

1 Well, we know from Chen -- Chen is very explicit. And I'm going
2 to go back to Slide 12. The examples are not limited to the specific file
3 types. And how do we know that? We can see in paragraph 16 of Chen,
4 there are TV programs transmitted by cable TV. There's video on demand,
5 movie program, and there's media. And we've been very clear from the
6 outset in the petition, and we can see the reproduction of a portion of
7 petition, page 35, that Chen's teachings represent a general technological
8 principle and are not limited to the examples in Figure 3. Chen, again, has
9 TV, just like the '805 patent. Chen has video on demand. Chen has media.

10 I want to move to Slide 14. And this is the same thing, so Patent
11 Owner has been arguing that because -- and again, it's based on this
12 assumption that somehow Chen is limited to specific file types. Therefore, it
13 wouldn't work when you have streams. Well, Patent Owner's arguments are
14 wrong, simply wrong on the technology. And the reason why -- and let me
15 point out another example. Sorry, let me back up.

16 In the middle of Slide 14, we can see Exhibit 1007, which is Chen,
17 Claim 6. It very clearly says, wherein the first metadata or the second
18 metadata is a VOD program or a cable TV program. So Chen has been very
19 clear all along, and they're contemplating and suggesting to a POSITA that
20 you could use this for streams. And we also pointed out in the reply -- and
21 this is Dr. Lippman's second declaration -- that these types of services are
22 data streams, not files.

23 We've provided a number of background references showing that
24 these are, in fact, streams, and again, not data files. So at the bottom of Slide
25 14, you can see there's Kim showing that EPG is a stream. You've got the

1 Exhibit 1023, the Seo reference -- EPG, again, stream. Exhibit 1024, the
2 Dolce reference; VOD content, stream content; and Melnychenko describes
3 internet media as stream content.

4 So what we've been very clear from the get-go is that you would
5 use Melnychenko's subservices, and you would organize the metadata from
6 Melnychenko's subservices as disclosed by Chen, or as taught by Chen. And
7 you would use it -- so for example, Melnychenko has the VOD, EPG, and
8 media subservices. You would organize that.

9 If you look at -- if you could direct your attention, Your Honors,
10 to -- actually, I can maybe pull this up. Page 36 of the petition makes this
11 very clear, and we've been clear from the outset, that it would've been
12 obvious to a POSITA that additional fields may be included in a specific
13 table of uniform format described by Chen to account for different types of
14 content, including those provided by Melnychenko's media guide and data
15 sources.

16 In such an implementation, Melnychenko's metadata tables
17 (implemented per Chen) would include additional fields for metadata,
18 corresponding to Melnychenko's content, including VOD content, TV/EPG
19 content, and media content. Do you have any questions, Your Honors?

20 JUDGE COURTENAY: I have no questions.

21 MR. BOWSER: Okay. So I want to next turn to Patent Owner's
22 construction of predefined format, and Patent Owner's construction of
23 predefined format is incorrect. On Slide 13, you can see Limitations 1.2.1
24 and 1.2.2. Again, predefined format is singular. All right. We've been --
25 Dr. Lippman has testimony on this point. Again, it's predefined format. It's

1 singular. Now, Multimedia made two arguments with respect to how
2 predefined formats should be construed.

3 They first said that the data -- and you can see their arguments
4 summarized in the Patent Owner response in the upper right-hand corner of
5 page 20. They first said that it would have to be defined prior to the
6 organizing step. We agree with that because you have to organize according
7 to the predefined format. Then, however, Patent Owner argues that there has
8 to be three predefined formats.

9 Now, let's look at the actual language of Claim 1 in the upper left-
10 hand corner. It says a predefined format, and wherein the predefined format
11 comprises one of a VOD data model, et cetera. There's only one predefined
12 format, but Patent Owner wants to read in limitations from the specification.
13 And in the bottom left-hand portion of Slide 13, we can see that -- this is in
14 Dr. Lippman's rebuttal, summarizing Patent Owner's argument.

15 Now, Patent Owner cited three passages. Passage 1, which I will
16 point to -- let me start -- give me a second. Passage 1 is Column 34, lines 49
17 to 60 on Slide 9. We talked about that. And I should also mention -- I
18 forgot to mention, I apologize -- that the portions that are on Slide 9, Your
19 Honors, those are the same portions that the Board referenced in the
20 institution decision on page 28.

21 Going back to Slide 13, the two portions that Patent Owner relies
22 on are portions 2 and 3 in the bottom right-hand corner of Slide 13. One of
23 the portions refers to a specific format. It doesn't even describe a predefined
24 format. And the third portion the Patent Owner relies on is having to do -- it
25 doesn't mention the predefined format at all, and what it talks about is

1 translating the data, and that is a concept that is simply not recited in the
2 claims. So Patent Owner is improperly --

3 JUDGE FENICK: Mr. Bowser?

4 MR. BOWSER: Yes?

5 JUDGE FENICK: Sorry. With respect to the second, the one that
6 you have marked with the number 2 on it.

7 MR. BOWSER: Yep.

8 JUDGE FENICK: Doesn't that say according to a specific format
9 of a corresponding designated information source, which would imply that
10 there's more than one format?

11 MR. BOWSER: Well, so two points, Your Honor. Number one, it
12 doesn't -- the '805 patent doesn't ever equate the term "specific format" with
13 a predefined format. So the patent uses the terms differently, and so we
14 don't think it implies. Secondly, to the extent that there is three predefined
15 formats, that's not what's claimed. I mean, we can see very clearly, Your
16 Honor, that what's claimed is a single predefined format, and that's very
17 clear from the claim itself.

18 JUDGE FENICK: So when you read the --

19 MR. BOWSER: So --

20 JUDGE FENICK: -- claim that says the predefined format
21 corresponding to each of the plurality of subservices, you're saying that the
22 corresponding to each doesn't imply separate predefined formats.

23 MR. BOWSER: Yes. We're saying that there's only one. There
24 could be only one. I mean, that's what the claim requires.

25 JUDGE FENICK: You're saying that because of the "the" -- "the

1 predefined format” later in that -- or I guess that's in 1.2.2?

2 MR. BOWSER: Yes, right. And well, also too, Your Honor,
3 there's no point in any of the claims where they refer to plural predefined
4 formats. I want to move to -- I'm going to move to Slide 15.

5 JUDGE COURTENAY: Mr. Bowser --

6 MR. BOWSER: Yes, Your Honor.

7 JUDGE COURTENAY: Mr. Bowser, this is Judge Courtenay. I
8 mean, isn't it true you have the transitional phrase “comprising”, and you
9 have a predefined format. That would cover one or more, right? It's an open
10 set under comprising. You agree with that or no?

11 MR. BOWSER: Well, yeah. I mean, because it's an open-ended
12 term, it could have one or more, and we've shown how the prior art teaches
13 at least one, and I can also show you how the prior art teaches more, too, and
14 that is on Slide 15. So even if you construe a predefined format as requiring
15 multiple formats, which again, is not claimed, but we can see that. So Chen
16 teaches that, as well, and I'm on Slide 15. I'm sorry if I didn't announce that.

17 So what we see very clearly is that there are three predefined
18 formats. We have an order -- we have the same order in each instance, as
19 we talked about earlier, but there's a different predefined format because the
20 data is different. And again, these are examples. These are MP3, JPEG,
21 MPEG4. These are just examples, as we talked about, but we can see that
22 the data is different, and we know that very clearly from paragraph 20,
23 where we can see the symbol, “###”. When it appears three times, that
24 indicates that that particular table for that field is inputted with data. I mean,
25 just to give an example, filename for the MP3 metadata has data associated

1 with it. An author for the MP3 metadata has data associated with it.
2 However, JPEG doesn't have author, so there's a predefined format for each
3 different type of metadata.

4 I'm going to move to Slide 16, and this is Dr. Lippman's
5 explanation to the points that I just characterized, which is the metadata.
6 And we can see on the left-hand side, the metadata in each of the tables in
7 the combination would be organized in a predefined format because they
8 include different metadata as indicated by the symbol, “###”. So do Your
9 Honors have any questions?

10 JUDGE COURTENAY: Mr. Bowser, this is Judge Courtenay.
11 I'm looking at Claim 1. It just seems like these terms are defined in the
12 claim. A predefined format is introduced in 1.2.1, Claim 1, organizing by
13 the processor the data according to a predefined format, corresponding to
14 each of the plurality of subservices. Now, you made the point that
15 subservices is not defined in the claim. I heard your argument there. And
16 then when we get down to uniform format of 1.2.4, where in each of the
17 VOD data model, EPG data model, the media data model provide a uniform
18 format for the plurality of subservices.

19 So we're kind of conflating data and subservices. Subservices are
20 recited in the claim. You're reading it on metadata in Chen, and sources of
21 data, you're corresponding to VOD, EPG, and media subservices, which I
22 would agree, that's disclosed in Chen. But what about subservices? It's not
23 defined in the claim, so what's your -- how are you construing subservices to
24 read it on the metadata in Chen?

25 MR. BOWSER: Your Honor, to be clear, we are not referring to

1 the subservices. I'm going back to Slide 7. The subservices --

2 JUDGE COURTENAY: You're referring to it as the data sources;
3 is that correct? The data sources are the -- as depicted in Figure 3 of Chen.

4 MR. BOWSER: I'm sorry. Let me go back to Slide 10. Okay. So
5 to be clear, the subservices, we are not relying on Chen's subservices, and as
6 I talked about with respect to Slide 7 and 8, the petition relies on
7 Melnychenko for the specific subservices, okay?

8 JUDGE COURTENAY: Okay. All right.

9 MR. BOWSER: Chen describes -- sorry?

10 JUDGE COURTENAY: I said, okay. Proceed.

11 MR. BOWSER: Okay. And Chen describes examples of metadata
12 that are coming in, right? Chen discloses examples, so we can see in Figure
13 3 that the signal sources are examples of metadata. We have three different
14 types of sources. Really, all we're relying on in Chen is for the concept --
15 the general concept as to how you organize metadata when it comes from
16 different sources.

17 And we see three different sources in Chen -- MP3, JPEG,
18 MPEG4. Those are examples, again, but the signal sources are 310, 320,
19 330. And it corresponds very closely to the same types of subservices that
20 you have in the '805 patent, and you have Melnychenko. Melnychenko has
21 subservices -- VOD subservice, it has an EPG subservice, and it has a media
22 subservice, just like the '805 patent. This concept of the subservice is not
23 new. Your Honor, to your point about the terms being defined in the
24 specification, I'm, again, on Slide 10, and --

25 JUDGE COURTENAY: My point was they're defined in the

1 claim, not the specification.

2 MR. BOWSER: Oh, I'm sorry. Yeah, I misspoke. I apologize.

3 Well, we don't believe that the terms themselves are defined in the claims.

4 We see that the terms predefined format -- and I want to go to Slide 9 --

5 there's no definition in our opinion about what predefined format means. So

6 we look to the specification --

7 JUDGE COURTENAY: Mr. Bowser, it says right in 1.2.2,

8 "Wherein the predefined format comprises one of a VOD data model in EPG

9 data model and a media data model." Is that not a definition in the claim

10 itself?

11 MR. BOWSER: Well, there is an order -- so, okay, let's go back to

12 what predefined format means. It means the order of the data, right? And so

13 the --

14 JUDGE COURTENAY: Well, not necessarily. You're reading

15 that from the specification of the '805 patent into the claim. I don't see any

16 order in Claim 1.

17 MR. BOWSER: Claim 1 does not -- yes, Claim 1 does not define

18 order. We're -- we've construed a predefined format based on how it's used

19 in the specification.

20 JUDGE COURTENAY: Right, but that requires reading a

21 limitation from the specification into Claim 1, and Claim 1 is actually

22 broader. That's my point but go ahead and continue your principal

23 argument. We're at about 25 minutes, and you wanted to reserve 20

24 minutes, I believe.

25 MR. BOWSER: Yes. Okay.

1 JUDGE COURTENAY: And I interrupted you. You can have a
2 longer principal argument, if you want to. It's your discretion, obviously.

3 MR. BOWSER: Okay. So Your Honors, these are not on the
4 slides and largely, this wasn't in dispute between the parties, in terms of how
5 the predefined format comprises the different data models. So you can see
6 in this particular feature is addressed in -- from pages 37 to 42 of the
7 petition. And again, this wasn't contested by Patent Owner, but what we --
8 when you have the combination together, we get the predefined -- we have
9 the data models from Melnychenko.

10 We have the VOD data model, we have an EPG data model, and
11 we have a media data model. What Chen -- why Chen has relied on is just
12 then to organize that information according to that format, and we have
13 that -- again, I don't have a slide on this particular point -- but we have that
14 based on how the data is then organized for each different type of data
15 model. So we know this happens because there are three metadata tables for
16 each different type of data.

17 So when you take the data models from Melnychenko, you would,
18 as described in the petition, have a predefined format for the VOD data
19 model, which again, comes from Melnychenko. You would have a
20 predefined format for the media data model, and you would have predefined
21 format for the EPG data model. And again, this is explained in -- on pages
22 37 to 42 of the petition where we specifically address Limitation 1.2.2. And
23 with that, I will -- unless there are any questions, I will reserve the rest of my
24 time for rebuttal.

25 JUDGE COURTENAY: Mr. Bowser, I just have a brief question.

1 The source signals in Figure 3 of Chen -- MP3, JPEG, MPEG4 -- well, I
2 mean, they're streamed, but they originate as a file. They're file types, and
3 when they're received on the destination end, they're also stored as files. So
4 why are those not file types, as argued by Patent Owner? I'm not going to
5 make Patent Owner's arguments for them. You can stream an MPEG3 file;
6 you can stream a JPEG picture; you can stream an MPEG4 movie. But
7 those are also file types, aren't they? They're stored as files.

8 MR. BOWSER: They're streams, okay? So as we pointed out on
9 page 36 of the petition -- and again, these are examples, and Chen claims
10 other sources. So let me go like actually here -- just to be very clear. So this
11 is what Patent Owner has been arguing about being file types, and Patent
12 Owner's argument is wrong, and the reason why it's wrong, we know -- and
13 I'll go back to this. But for example, on Claim 6 -- I'm on Slide 14 --
14 wherein the first metadata or the second metadata is a VOD program or a
15 cable TV program, so these are streams and that's as Dr. Lippman has
16 explained with background evidence that these are streams. And by the
17 way, these are uncontested. This is uncontested by Patent Owner.

18 Going back to Slide 12, I'm just going to go to -- if you can, look at
19 Claim 6, just so we can all be in the same page of Melnychenko, and it very
20 says, wherein the first metadata or the second metadata is an MPEG file, an
21 MP3 file, a VOD program, a WMA file, a file, a program, or a cable TV
22 program. So Chen is contemplating them being files but also streams. Chen
23 is not limited to the specific example. Chen very clearly mentions this, and
24 I'm going back to -- again, to Slide 14 where these are -- Chen describes it as
25 being things other than file types. And I will point out, too, this is also

1 disclosed on -- or discussed on Slide 12. We have a VOD movie program.

2 So what will happen in the combination? And this is what we
3 described on page 36 -- 35 to 36 of the petition is that you would organize
4 the media -- sorry, the metadata in Melnychenko just as you would organize
5 it. So when there's a field for metadata, you would have that. And this is in
6 the first full paragraph of page 36 in the petition. So you would provide
7 additional fields, and I think this is very -- this is disclosed by Chen, so we
8 have additional fields. Look at Chen on the right-hand side of Slide 15.
9 There are fields.

10 Even though the particular metadata doesn't have that particular
11 data, there's still a field. So for example, for MP3 type of content,
12 resolution, language, it doesn't apply to MP3, but there's still a field. So
13 when you organize Melnychenko's metadata, you would have additional
14 fields for all the types of metadata that are contained in Melnychenko's
15 subservices. Does that answer your question?

16 JUDGE COURTENAY: Yes. Thank you very much.

17 MR. BOWSER: Sure. All right.

18 JUDGE COURTENAY: Well, before I turn it over to Patent
19 Owner, I think you're about -- you had 25 minutes at 1:30, so you're about --
20 I don't know -- you'll have about 15 minutes in your rebuttal time. Maybe a
21 few minutes more --

22 MR. BOWSER: Okay, thank you.

23 JUDGE COURTENAY: -- Mr. Bowser.

24 Mr. Yang, you're up. Do you want to reserve any time for your
25 surrebuttal in advance?

1 MR. YANG: Yes, Your Honor. I'd also like to reserve 20
2 minutes.

3 JUDGE COURTENAY: Okay, 20 minutes. All right. So you
4 have 25 minutes for your principal argument. You may begin any time.

5 MR. YANG: Thank you, Your Honor. On Slide 2, I was hoping
6 to address these three issues in today's hearing, but from what I've heard, I'd
7 like to focus on the first issue. The independent claim's requirement of
8 organizing data according to a format corresponding to each of the plurality
9 of subservices, and then I'll cover the others if I have time.

10 So starting with this first issue, we have proposed a construction
11 for this term, but we don't need that construction to prevail here. The claims
12 on their face say organizing according to a format, corresponding to
13 subservices. Corresponding to subservices is the key here. That means that
14 the format has to correspond to subservices and if a prior art format does not
15 correspond to subservices -- if they correspond to something else, then the
16 claims are valid, and it's that clear cut. So if you turn to Slide 7, I don't think
17 there's any dispute here that there's no format in the prior art that
18 corresponds to subservices.

19 Slide 7 shows what the petition alleges to be the format
20 corresponding to subservices in Chen, but there's no question here that this
21 format in Chen corresponds to file types, not subservices. The Petitioner
22 admits that. In this format, metadata is organized -- the metadata tables --
23 corresponding to MP3, JPEG and MPEG4 content. MP3, JPEG, and
24 MPEG4 are all file types. They're not subservices. Our expert, Dr. Surati,
25 testified to that. That's on Slide 8. Their expert, Dr. Lippman, admitted it in

1 deposition, and their Petitioner's reply doesn't even contest it at all. And this
2 is dispositive in our favor.

3 One thing I want to clarify is I heard Petitioner earlier attempt to
4 conflate the sources in Chen with subservices. I want to make clear that the
5 three inputs in Chen, they're not three different subservices. When you're
6 looking at those inputs, there's not one that's a VOD, there's not one that's an
7 EPG, and there's not one that's a media. At most, all three of them are media
8 sources, and the media source, which is, at most, one subservice, provides
9 three different file types, MP3, JPEG, and MPEG4. So you're getting three
10 different file types from the same type of subservice of the claims.

11 So turning to Slide 4, because Petitioner really has no argument for
12 a format corresponding to subservices, which is what the claims require,
13 their reply throws their Petitioner argument under the bus and makes a
14 completely different argument. And their new reply argument is that
15 Melnychenko teaches subservices, and Chen teaches organizing by format,
16 and somehow, that would make organizing a format corresponding to
17 subservices obvious.

18 First of all, I just want to point out that I don't think that's the
19 argument they made in the petition. The argument they made in the petition
20 is that Melnychenko doesn't teach how metadata is formatted, but Chen
21 suggests formatting corresponding to subservices. We now know that's not
22 true. They have admitted it. So now their new reply argument is that Chen
23 just teaches formatting, and you would take formatting by file type from
24 Chen and then add that to the subservices in Melnychenko and format by
25 subservices.

1 But the problem with this argument, Your Honor, is that Petitioner
2 never explains why this is obvious. This is like saying Chen teaches
3 formatting by file type, and you have a book about dinosaurs, and that would
4 make it obvious to format by dinosaurs. There's just no connection between
5 the two things in the prior art that they're trying to tie together.

6 And the evidence is overwhelming that there's no connection
7 between Chen's file types and subservices in the prior art at all, so much so
8 that Petitioner doesn't even contest this point if you look at their reply. And
9 furthermore, if you look at Slide 9, this is unrebutted evidence from Dr.
10 Surati that there's no connection, no relationship, no correspondence
11 whatsoever between file types and subservices. And the reason is because
12 each subservice can use all of the possible file types.

13 For example, a media subservice can provide files in MP3,
14 MPEG4, and JPEG file formats. The same is true of an EPG subservice, and
15 the same is true of a VOD subservice. Each subservice provides all different
16 types of file types. So when you're organizing by subservice, that's not the
17 same thing as organizing by file types because the file types don't
18 correspond to the subservices.

19 And it's also true in reverse, as well. If you have an MP3 file, that
20 could originate from a media subservice, that could originate from a VOD
21 subservice. And that could also potentially originate from an EPG
22 subservice. So either way you look at it, there's simply no correlation
23 whatsoever between what the file type is and what the subservice is. So you
24 can't connect a subservice with the file type at all. There's simply no
25 relationship between the two.

1 And I want to also point out that if you read Dr. Lippman's reply
2 declaration, he doesn't even attempt to draw a connection between the file
3 type and the subservice because there isn't any. There's no connection
4 whatsoever. So turning to Slide 11, because there's no connection between
5 the file type and the subservice, Dr. Surati testified, again, unrebutted, that if
6 you were to apply Chen to Melnychenko, you would just take Chen's
7 teaching to format by file type and then format Melnychenko's system by
8 file type. That's what Chen teaches. It teaches formatting by file type and
9 because Melnychenko's subservices provides various file types, you would
10 format those file types by file type, as taught by Chen.

11 There's absolutely no reason to take the additional leap to format
12 by subservice, because that's not taught anywhere in the prior art. And I
13 heard Petitioner earlier say that their argument is you would use
14 Melnychenko's subservices and organize them as taught by Chen, and that's
15 well and good, but the problem is, how would you organize them as taught
16 by Chen because Chen teaches organizing them by file types.

17 So when you look at Melnychenko, and you apply the teaches of
18 Chen, you would organize Melnychenko's data inputs by the file types that
19 are being provided, and all the different subservices provide all different
20 types of file types. There's no connection between them, so why would you
21 organize by subservice? That is the critical question in this IPR in which the
22 petition has never explained, Petitioner's reply doesn't explain, and Dr.
23 Lippman never even attempts to explain in his reply declaration.

24 In fact, if you look at Slide 17, the Petition argues that Chen itself
25 discloses subservices. Since Chen teaches subservices on its own, the fact

1 that it organizes by file types and not subservices is powerful evidence that
2 Chen wouldn't suggest organizing by subservice. When the two ingredients
3 a Petitioner say is all they need to prove obviousness, those two ingredients
4 are already in Chen, and Chen doesn't do it. Chen does not organize by
5 subservice. There's no teaching of it. So at most, what you would get from
6 Chen is a teaching to organize by file type. You would apply that to
7 Melnychenko, and you would continue to organize by file type because
8 that's what's taught by Chen.

9 So to recap, the unrebutted evidence is that there's no
10 correspondence between file types and subservices, and because there's no
11 correspondence between file types and subservices, and because there's no
12 correspondence, no relationship between file types and subservices,
13 Petitioner has to explain why a person of ordinary skill would tie these two
14 unrelated concepts together. They haven't met that burden. They haven't
15 provided any reason to go from a teaching of a format corresponding to file
16 types to what's in the claims, teaching the requirement of a format
17 corresponding to subservices. Do any of Your Honors have any questions
18 about this argument?

19 JUDGE COURTENAY: This is Judge Courtenay. To be clear,
20 you claim one of the corresponding subservice of a plurality of subservices
21 in 1.1.1 and using the term “comprising”, which again, is an open set, in
22 1.1.2, wherein the plurality of subservices comprises a video on demand,
23 VOD subservice, electronic programming guide, EPG subservice and
24 immediate subservice. So your claim requires at least those three types of
25 subservices.

1 MR. YANG: Yes, Your Honor.

2 JUDGE COURTENAY: All right. Mr. Yang, would you agree or
3 disagree that three subservices are taught or not taught by the references?

4 MR. YANG: Your Honor, I certainly can see that the three
5 subservices are taught by the references. The issue isn't whether the
6 references teach the subservices. We're focused on a different element here.
7 The issue is wherein the predefined format -- I'm sorry -- organizing the
8 data -- sorry. The data according to a predefined format corresponding to
9 each of the plurality of subservices. So the claim language itself states that
10 the format -- predefined format -- has to correspond to subservices.

11 If the predefined format corresponds to something other than
12 subservices, which is what the prior art teaches, then it can't teach a
13 predefined format corresponding to subservices. That's our argument.
14 We're not disputing that the subservices aren't in the prior art. We're
15 disputing that the format doesn't correspond to any subservice.

16 JUDGE COURTENAY: Mr. Yang, could you have one
17 predefined format for -- that would be different for each of the VOD, the
18 EPG, and the media subservices?

19 MR. YANG: Well --

20 JUDGE COURTENAY: Or would it be possible within the scope
21 of your claim to have where you have the same predefined format -- a
22 singular predefined format, as argued by Petitioner, for each of VOD
23 subservice, EPG subservice, and the media subservice? That's a bit
24 confusing in your claim.

25 MR. YANG: Sure, Your Honor. That actually goes to the claim

1 construction argument, which is not the argument that I just presented. The
2 argument that I just presented is that the claim -- the format requires to be --
3 is required to correspond to subservices. The following -- the claim
4 construction argument is a separate argument that says that the predefined
5 format corresponding to each of the plurality of subservices requires three
6 different subservices because the words “each of”.

7 When you look at the words “each of”, that is the language that
8 requires each format to have a separate subservice for each format.
9 Otherwise, we contend that the claim language itself would say predefined
10 format corresponding to subservices. If the claim language was simply
11 predefined format corresponding to subservices, then potentially you could
12 have only one predefined format because that would be what the claim
13 language says, but that isn't the case here.

14 The claim language doesn't say predefined format corresponding to
15 subservices. The claim language says, “predefined format corresponding to
16 each of the plurality of subservices”, so the word “each of” modifies the rest
17 of the language to indicate that the format corresponds to each subservice,
18 not to all of the subservices.

19 JUDGE COURTENAY: Okay, but wouldn't --

20 MR. YANG: Does that answer your question?

21 JUDGE COURTENAY: Wouldn't your claim cover a scenario
22 where you have one predefined format for all three subservices? Would that
23 not be within the scope of your claim?

24 MR. YANG: The claim requires three separate predefined
25 formats, one for each subservice. If your question is --

1 JUDGE COURTENAY: That's your reading of your claim?

2 That's how you understand it?

3 MR. YANG: That's what's required by --

4 JUDGE COURTENAY: And we --

5 MR. YANG: -- the words "each of".

6 JUDGE COURTENAY: We have three different predefined
7 formats? One for each subservice? Is that how you understand your claim?
8 Are you --

9 MR. YANG: Yes, because of the words "each of". "Each of"
10 requires --

11 JUDGE COURTENAY: Each of --

12 MR. YANG: -- that one format corresponds to each subservice. If
13 you deleted the word "each of", then I wouldn't contest that. There could be
14 one format for all of the subservices, but because of the addition of the
15 words "each of", each format has to correspond to each subservice. That's
16 our position.

17 JUDGE COURTENAY: And they would all be different. So
18 you'd have three distinct, discreet, predefined formats? One corresponding
19 to each of the three types of subservices? VOD, EPG, and media subservice;
20 is that correct?

21 MR. YANG: Yes. That's what the word -- that's required by the
22 words "each of", because when a format corresponds to each of the
23 subservices, that necessarily means that each subservice has a different
24 unique format.

25 JUDGE COURTENAY: I don't read the claim exactly that way

1 but go ahead and proceed.

2 MR. YANG: So --

3 JUDGE FENICK: This is Judge Fenick. I just want to talk about
4 the question of what Chen teaches with respect to the signal sources in
5 Figure 3. Chen shows them as MP3, JPEG, and MPEG4, and my
6 understanding is that those in Chen are types of media, but that Chen also
7 talks about television broadcast and video on demand as other sources.

8 So why -- I understand your point that these three sources might all
9 be one type of source, might be media subservice sources, but wouldn't
10 Chen's other example sources also be seen this way? So in other words,
11 wouldn't they also have this kind of metadata table that would be used to
12 have those sources included in kind of a more expanded version of Figure 3?
13 Why shouldn't we see that in Chen?

14 MR. YANG: I'm sorry, Your Honor. I was actually making a
15 slightly different point. My point was if you look at Figure 3 of Chen, 310,
16 320, and 330 are three separate sources, but they're all -- they should all be
17 classified as media sources, and from the same media source, Chen is getting
18 three different formats. One format for --

19 JUDGE FENICK: I understand that.

20 MR. YANG: -- MP3, one format for JPEG, and one format for
21 MPEG4. So what Chen is saying is that even for one subservice, you're
22 getting three different -- three different -- completely formats, and that's not
23 what the claim requires. The claim requires one format corresponding to
24 one subservice. In Chen you have one subservice, but you have three
25 different formats because there's three different file types.

1 That's the point I was trying to make is that if you take the teaching
2 of Chen, what you're getting is you get one subservice and you have multiple
3 formats corresponding to multiple file types for that one particular
4 subservice, so there's no overlap between the format for file types and the
5 format for subservices, because you get multiple formats for subservices --
6 I'm sorry -- you get multiple formats for file types from one subservice. And
7 one format for a file type could apply to multiple subservices, as well.

8 So there's no one to one relationship between subservices and file
9 types, and because the claims require formatting by subservices, if there's no
10 relationship between subservices and file types, then you can't conclude
11 from a formatting by file types that Chen suggests formatting by
12 subservices. Does that clarify my point?

13 JUDGE FENICK: Yes, I understand your point now. Thank you.

14 MR. YANG: Thank you, Your Honor.

15 JUDGE COURTENAY: Mr. Yang, this is Judge Courtenay,
16 again. It seems what's missing from 1.2.1, you're saying you have different
17 predefined formats corresponding to each. You emphasize the words "to
18 each of" the plurality of subservices, but your claim doesn't recite organizing
19 by the processor the data according to a different predefined format
20 corresponding each of the plurality of subservices. You don't have the word
21 "different" in your claim that would correspond to the way that you are
22 interpreting your claim.

23 MR. YANG: That's certainly --

24 JUDGE COURTENAY: Can you make a comment about that?

25 MR. YANG: Yes, Your Honor. That's certainly true, Your Honor.

1 First of all, I want to point out that our principal argument isn't this claim
2 construction argument over what the word "each of" means. Our principal
3 argument is that the format has to correspond to subservices, and the prior
4 art format does not. With respect to the claim construction argument, I agree
5 it doesn't say "different," but the words "each of" indicates that each format
6 has to correspond to one subservice. That's what the word "each" means.

7 If there's not a one-to-one correspondence between format and
8 subservices, then the word "each of" there would be superfluous, and you
9 would be able to delete it. And under Federal Circuit precedence, if the
10 words are there, then they can't be superfluous. So we're contending that
11 because of the words "each of" is in the claim language, you have to read it
12 to require a one-to- one correspondence between format and subservices. So
13 there would be one format for each subservice. Does that answer your
14 question?

15 JUDGE COURTENAY: Yes. I still think the claim is broader
16 than you just described. The "to each" doesn't remedy the deficiency of not
17 having the word "different". If you had recited to a different -- or organizing
18 by the process of the data according to a different predefined format,
19 corresponding to each of the plurality of subservices, it would be crystal
20 clear that that's consistent with what you're arguing, but I do think the claim
21 would broadly cover where you have maybe a single predefined format or
22 each of the plurality of subservices. Or if you have three subservices, you
23 could have one predefined format that might be used for two of them and a
24 different one for the third one. It's broad, but go ahead. That's just my
25 comments. Go ahead and proceed with your argument, please.

1 MR. YANG: Okay. So the rest of the argument is that --
2 assuming that you agree with this construction, which it is an assumption, I
3 understand -- that the petition hasn't demonstrated that there is a format for
4 each subservice because as we discussed earlier, because the prior art
5 organizes by file type, each subservice has multiple formats because each
6 subservice provides multiple file types. And the reverse of that is also true.
7 Each file type format corresponds to multiple subservices.

8 So for example, you have three subservices, six file types, and you
9 would get six different formats. Each individual subservice could have six
10 formats, and those six formats could apply to all six subservices. There's
11 just no relationship between the prior art file type format and the required
12 format corresponding to the plurality of subservices because they haven't
13 identified one format for one subservice. That's what's missing. If there's
14 any additional -- if I have any additional time left, I can move on to the
15 construction of media metadata personalized for a user.

16 JUDGE COURTENAY: You're about 18 minutes into your
17 principal argument.

18 MR. YANG: Okay, Your Honor. I'll just briefly touch on these
19 other points. The point for media metadata personalized for a user is that the
20 term "personalize" here modified metadata, not media. So the media
21 metadata itself has to be personalized for a user. That's what the claim
22 language says and that's what the embodiments in the specification do. The
23 party agrees that the prior art personalizes the media. The prior art doesn't
24 personalize the metadata, so the prior art can't teach personalizing metadata
25 under the correct construction.

1 And then finally, with respect to the EPG information in a read
2 only format, Petitioner's argument is that EPG information is inherently in a
3 read only format because the nature of EPG information is that it can't be
4 edited. And we presented state of the art evidence that EPG information is
5 edited, so it's not inherent property of EPG to be not editable. With that, I
6 don't have any further arguments, and I'd like to reserve my remaining time
7 for rebuttal.

8 JUDGE COURTENAY: Thank you very much, Mr. Yang. Mr.
9 Bowser, I believe you have about 13, 14, 15 minutes left to begin your
10 rebuttal. I think you may be on mute.

11 MR. BOWSER: All right. Let me share my screen again. So I
12 first want to address Patent Owner's arguments about their construction, and
13 as we've pointed out earlier, their construction about having three predefined
14 formats, it's just simply wrong because it's not required by the claim, but
15 even if the Board were to adopt that incorrect construction, we still win.
16 And the reason that we still win is because there is a different type of
17 predefined format for each different metadata table. Okay.

18 We can see at the top MP3 -- and again, these are examples --
19 JPEG. The data in themselves -- the data in each metadata table is different,
20 and as a result, you're going to have a different predefined format for each
21 different source of metadata. I want to -- and just to be clear, too, on -- this
22 is an explanation from Dr. Lippman, and by the way, this is unrebutted.
23 This is in Dr. Lippman's second declaration.

24 Patent Owner could've had an opportunity to contest it or had an
25 opportunity to contest this, they decided not to. And here we have Dr.

1 Lippman explaining that even if the Board were to construe this as having
2 three predefined formats, there are three predefined formats because there's
3 one for each different type of metadata source. All right.

4 I want to also mention something that Patent Owner's counsel
5 brought up and we can see -- let me go back to Slide 15, just so we can see
6 this on the screen. Patent Owner argued that somehow, MP3, JPEG, and
7 MPEG4 are all the same types. Well, that's actually not -- that's not
8 consistent with what Chen discloses. You can see in paragraph 18, Your
9 Honors, about halfway down -- and I can show you here on the screen,
10 paragraph 18.

11 Paragraph 18 describes that examples of the VOD program include
12 MPEG4. So let's go back to, you know, Chen's paragraph -- or sorry, of
13 Figure 3. We've got MPEG4. What Patent Owner is arguing is based on
14 this assumption that somehow, these are all the same type of subservice,
15 MP3 and JPEG, but MPEG4, however, is a different type of service.

16 And I want to just, again, touch on Claim 6. We can see on the
17 screen that Claim 6 is very clear that we're not limited to file types. It
18 discloses -- Chen discloses this in alternative forms. We have a VOD
19 program, and we have a cable TV program, so -- but Patent Owner's
20 arguments are based entirely on this assumption that somehow Chen is
21 limited to the single file types, and that's just not true. I want to -- so if I
22 can, touch on some arguments that --

23 JUDGE FENICK: Right. Before you move on --

24 MR. BOWSER: Check the --

25 JUDGE FENICK: Before you move on, I was interested in that

1 argument. Does Chen not teach that these three signals -- MP3, JPEG, and
2 MPEG4 -- are all -- sorry -- are all examples of media -- sorry -- just looking
3 for where it is in the petition. I apologize. I've changed my page.

4 All right. So the -- so MP3, JPEG, and MPEG4 are all described
5 as media as -- I think, media in Chen. And so those are all from one
6 subservice, right? The media subservice. And I understand your point that
7 while one of them could also be from the video on demand, but looking at
8 what Chen's Figure 3 is about, how is this not about one subservice, kind of
9 the different formats from one subservice being input into the media context
10 control units?

11 MR. BOWSER: Okay. That's a good question. So first off, this
12 concept about MP3, JPEG, and MPEG4 all being related to media, that's
13 Patent Owner's characterization. Chen does not specifically say that. I
14 mean, they can be media, but as I described with respect to paragraph 18,
15 Chen also describes that MPEG4 can be for VOD, so we have two different
16 subservices here. We've got media and VOD.

17 Let me point out, too, Your Honors, that -- I'm going back to Slide
18 12. These are examples that are illustrated in Figure 3. You know, it's
19 interesting because Patent Owner has -- keeps using this term "file types"
20 and they just want to bury their head in the sand in saying like, that we don't
21 have VOD programs, we don't have TV. Chen is broader than Figure 3. I
22 mean, we've talked about this with respect to Figure 14. We have evidence
23 in the art showing that all of these are examples of streams. These are
24 different subservices. TV is a streaming service, cable TV is a streaming
25 service, video on demand is a subservice, okay? These are streaming forms

1 of data. And again, Melnychenko was relied on for teaching the subservices.

2 So if you look at Patent Owner's arguments, what they want to do
3 is say, you know what, we -- and Patent Owner's counsel admitted that --
4 they're not even contesting that Melnychenko teaches the subservices. What
5 they want to say is well, you know what, we -- just forget that, but what we
6 want to focus on is Chen somehow teaching the subservices, but that's not
7 the argument in the petition, all right? We've been very clear all along that
8 what Chen discloses and suggests to a person of ordinary skill in the art is
9 how you would organize metadata from different sources. That's it. Say
10 Chen -- sorry.

11 JUDGE FENICK: This is Judge Fenick. Is it from different
12 sources or different file types?

13 MR. BOWSER: It's from different sources.

14 JUDGE FENICK: And where do you get that from Chen?

15 MR. BOWSER: So -- sorry, let me see. We have signal source
16 terminal -- signal source -- I'm on Slide 15. They're called signal sources,
17 and in fact, you know, we talked earlier about that signal sources can be -- I
18 mean, it's very clearly described as a source. This is a different source of
19 content. There are three sources. Chen describes, for example, with respect
20 to Figure 1 in -- on paragraph 16, that there are different sources. And so
21 we're not limited to file types.

22 We've been very clear. And also, Chen, paragraph 6, talks about
23 different sources. So they're not limited to file types. It's just Patent
24 Owner's assumption that they're file types. That's not what is disclosed. Are
25 there any further questions with respect to this point?

1 JUDGE COURTENAY: Mr. Bowser, this is Judge Courtenay. I
2 don't find -- we don't always need -- we don't need the literal term stream in
3 Chen, but I don't see it in Chen. I do see it in Melnychenko. There's a
4 description, for example, of streaming content in paragraph 32 and
5 throughout the reference, but I just don't see the word "stream" -- the literal
6 term -- which again, you don't need the literal term to show obviousness, but
7 I don't see the literal term stream in the Chen reference. And correct me if
8 I'm wrong, if you find it elsewhere.

9 MR. BOWSER: Your Honor, so to that point, I don't believe that
10 Chen actually uses the word "stream", but what we have is -- I'm going on
11 Slide 14 -- that a POSITA would understand that digital TV program, cable
12 TV, video on demand, those are all streams. And what we can see in
13 paragraph 38 of Dr. Lippman's declaration is disclosing that these are all
14 different types of streams. We've cited Kim, we've cited Seo, Dolce,
15 Melnychenko. Just this background art. This is known in the art.

16 Now, I can also -- I think it's important to be clear here that in
17 paragraph 6 -- I put this up on the screen. This is Chen paragraph 6, and I'm
18 going to read just this particular portion. The set top box is operable to
19 receive media metadata from various sources, including TV programs
20 transmitted by cable TV, a video on demand movie program transmitted by
21 the internet, an audio video data transmitted by a personal computer, or a
22 media data stored in other storage devices.

23 So Chen is very clear. We're talking about different sources, right?
24 We are not talking about specific file types. I want to move back to -- sorry,
25 are there any other questions with regard to this point?

1 JUDGE COURTENAY: I have no further questions.

2 MR. BOWSER: Okay, thank you. So two points and then I'm
3 going to finish. And these are just responding to arguments that Patent
4 Owner raised with respect to read-only format with regard to Claim 3 and
5 12, and then media personalized for -- media metadata personalized for a
6 user. Okay.

7 So first, I'm going to touch on the read-only format and I'm going
8 to move to Slide 21. Patent Owner's argument essentially is this. They're
9 taking this binary approach that EPG information has to be editable or not at
10 all, and we've never said that, and I -- if you could go back and if you have
11 a -- look at the record, Patent Owner even said that we argue that it's
12 inherent that it's read-only. We never argue that it's inherent. What we
13 argued is that it's obvious to provide certain EPG information in a read-only
14 format, okay? And we can see this in Slide 2, just to be very clear about our
15 argument.

16 And this -- I'm on Slide 22 -- this is the argument. So we have said
17 all along that Kim renders obvious that EPG information is in a read-only
18 format, and it's on the left-hand side. This is Dr. Lippman's original
19 declaration -- first declaration, and then on the right-hand side is Dr.
20 Lippman's second declaration. Same argument. It's obvious to serve certain
21 types of EPG information in a read-only format. And I'm just going to point
22 out some examples, and these are the examples that Dr. Lippman referred to.
23 He referred to, for example, airtime.

24 You don't want -- this is for informational purposes only. You
25 don't want the user being able to change the airtime for a particular EPG

1 information. And let's look at what the claim actually requires. EPG
2 information in a read is serving one or more applications with EPG
3 information in a read-only format. That's all that required. And Dr.
4 Lippman said that certain types of EPG information is informational, and
5 when it's informational, you want to serve it in a read-only format. So -- and
6 I want to point out, too, that Patent Owners made a lot of arguments about
7 how somehow, this is like -- that we've made up this argument and not in
8 support of any evidence. That's just simply not true.

9 Patent Owner -- or I'm sorry -- Dr. Lippman is referring to the
10 disclosure in Kim in understanding and explaining how a POSITA would
11 understand that. I mean, we have here, again, serving the time of a program,
12 and this is for the old lady program at 8:00 to 8:30 -- or sorry -- 8:00 to 8:50,
13 and that's the type of EPG information that would be in a read-only format.

14 And next -- last, I want to just touch on Patent Owner's arguments
15 about media metadata, personalized for a user. And what we have here is
16 that Patent Owner has argued that in fact -- by the way, Patent Owner has
17 proposed a construction for this particular term. They seemed to have
18 walked this back, but all that's required is that the metadata is personalized
19 for a user, and what you have -- what we've shown is with respect to the
20 Lee-2 favorite channels, is there's metadata that's provided.

21 Again, that's what the claim requires. Personalized metadata. And
22 what we showed in the petition is that you have personalized metadata that's
23 provided because you have thumbnails that are provided for specific users.
24 The user has selected certain channels. This is not on the slide, but we asked
25 Dr. Surati about this. So if you provide different media metadata -- I'm

1 sorry -- if you provide different channels, you provide different metadata,
2 and this is in our reply -- this is not an argument I'm just making up on the
3 spot. I can point you to this. This is on pages 33 and 34 of our reply, and
4 you can see Dr. Surati's testimony.

5 So when you provide different channels, you provide different
6 metadata, and that's all that's required by the user -- I'm sorry -- that's all
7 that's required by the claim. So with that, are there any questions from the
8 panel?

9 JUDGE COURTENAY: I have no further questions. Panel
10 members, any further questions for Petitioner? Okay. Let's move along.
11 According to our schedule, Mr. Yang, you have time for your surrebuttal,
12 and you cut your principal argument off short, so I believe you have --
13 according to our timekeeper -- 26 minutes left for surrebuttal.

14 MR. YANG: Okay, thank you, Your Honor. I want to start my
15 surrebuttal with what Petitioner said in their rebuttal, if the Board were to
16 adopt the construction. I want to re-emphasize that Patent Owner doesn't
17 need the Board to adopt this particular construction to prevail. Our principal
18 argument is that the format has to correspond to subservices.

19 Petitioner's entire argument, which you just heard, avoids
20 explaining how you would get a format corresponding to subservice from
21 Melnychenko and Chen. They keep saying Chen is -- I'm sorry.

22 JUDGE FENICK: Mr. Yang, I noticed that in the petition, around
23 42 to 43, just to start there. So at the bottom of page 42, it says, Chen's
24 disclosure of receiving different types of metadata from different sources,
25 sources 310, 320, and 330, and this cites Chen's paragraph 20. So I looked

1 again at paragraph 20, and it says that 310, 320, and 330 are single source
2 terminals.

3 For example, a USB storage unit, a personal computer, a cable to
4 TV, respectively. So doesn't this say that these are different sources? I
5 understand your argument that the sources are providing different data in
6 different formats, but Chen also is teaching that these are -- these data -- the
7 data in each different format comes from a different source terminal.

8 MR. YANG: Your Honor, I think the confusion here is that
9 Petitioner has conflated source with subservice, and that has caused some
10 confusion. A source is not a subservice. You have in Chen a source that
11 provides an MP3 file type, that's an MP3 source. You can have a source that
12 provides a JPEG file type that's a JPEG source, but a JPEG source or an
13 MP3 source, it's not a subservice. It could be one of the subservices, for
14 example, media, but a source isn't a subservice.

15 So when they're saying that you have three sources of MP3, JPEG,
16 and MPEG4, that's not three different subservices. That, at most, is just one
17 media subservice. So the issue that they're still confronted with, which
18 they've never explained, is that from one type of subservice, which the claim
19 requires to have a format corresponding to that subservice -- they have
20 multiple sources corresponding to multiple file types, and each of those file
21 type sources has its own format for a file type.

22 So they've never established a correspondence between a source of
23 a file type with the subservices in the claimed patent. And the reason is
24 because what the patent is looking at is it's formatting for all the data coming
25 in from a single type of subservice, the media subservice. That type of

1 subservice is getting one format for that subservice.

2 By contrast, if you're looking at Chen, what Chen is doing is it has
3 multiple sources for file types, and those sources are being formatted by the
4 file types, so even if those -- each of those sources is being considered one
5 specific type of subservice, that subservice in Chen, which is multiple
6 sources, each of those sources has its own format for a file type. So the
7 issue is that a source is not a subservice, so when you have a format
8 corresponding to a source, that's still not a format corresponding to a
9 subservice.

10 JUDGE FENICK: I understand your point. Thank you.

11 MR. YANG: The other point I wanted to make is that Petitioner
12 keeps saying that Chen is broader, but they never address the elephant in the
13 room, which is that Chen doesn't teach a format corresponding to
14 subservices. They have never shown how this is taught by Chen, and they
15 admit Melnychenko doesn't teach a format corresponding to subservices.

16 So the question Petitioner has to answer is how do you get a format
17 corresponding to subservices, which is in the claims, especially when
18 there's -- how do you get that from Melnychenko and Chen, especially when
19 there's un rebutted evidence that there's no relationship, no correspondence,
20 nothing whatsoever between the file types and the sources in Chen and the
21 subservices in the patent. Petitioner never explains this.

22 And Petitioner can't get around this problem if there's no
23 relationship between them because at the end of the day, when you have a
24 format corresponding to a subservice, you have to have that format applied
25 to everything from that particular subservice. That's just simply not the case

1 in Chen. What's happening in Chen is that each particular source with its
2 own file type has a format for that file type, but that file type format overlaps
3 multiple subservices. So you could have VOD subservices, EPG
4 subservices, and media subservices all provide the same MP3 format, and so
5 all three of those would be formatted, according to Chen, using the MP3
6 format, rather than a specific format for that subservice as in the claims.

7 And the reserve is also true. A single subservice in the claims has
8 to have one format, but because in Chen, a single type of media subservice
9 could have sources with MP3, sources from JPEG, and sources with
10 MPEG4, that single type of subservice has multiple formats associated with
11 it, one for each file type that it's providing. So there's absolutely no
12 relationship between subservices and file types. So without any relationship
13 whatsoever, Petitioner just hasn't explained why when you apply the
14 teachings of Chen to Melnychenko, you wouldn't just do what Chen is
15 already doing, which is to format the sources by the file types, rather than
16 format them by subservices.

17 Why would you do that? That's the thing that Petitioners never
18 explained. And as our expert testified, taking the teachings of Chen and
19 applying them to Melnychenko, you'd take Chen's teaching and format
20 Melnychenko based on the sources in Chen, which is the file types. So
21 there's no reason to make the modification that Petitioner is proposing.

22 The last thing I wanted to mention is I heard Mr. Bowser said that
23 he made up an argument on the spot, and I would submit that Your Honors
24 can't consider a new argument made up on the spot in today's hearing. Other
25 than that, I have no other argument, unless Your Honors have any further

1 questions.

2 JUDGE COURTENAY: Mr. Yang, this is Judge Courtenay. Can
3 you identify the specific new argument that you're referring to that Mr.
4 Bowser purportedly introduced into the record during the hearing?

5 MR. YANG: If you look at the transcript, it was the last argument
6 that he made when he referenced Dr. Lippman's declaration. He said that he
7 made up -- he said there was an argument made up on the spot.

8 JUDGE COURTENAY: Okay. You're about seven minutes into
9 your surrebuttal time. Do you have further arguments?

10 MR. YANG: I do not, if Your Honors don't have any further
11 questions.

12 JUDGE COURTENAY: Any further questions from judges on the
13 panel? Are you sure? So a very interesting claim, a very interesting case.
14 Okay. I think that concludes our hearing today, so the case is submitted, but
15 I would ask the Patent Owner, Mr. Yang -- I'm sorry -- yeah, Mr. Yang and
16 Mr. Bowser to stay on the line just for a few minutes because the court
17 reporter may ask you a few questions about spellings and things like that.
18 We are off the record now.

19 (Whereupon, the above-entitled matter went off the record at 2:19
20 p.m.)

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