

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISH NETWORK L.L.C. *et al.*,
Petitioner,

v.

TQ BETA, LLC,
Patent Owner.

Case IPR2015-01791
Patent 7,203,456 B1

Before JAMESON LEE, MATTHEW R. CLEMENTS, and
JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

DISH Network Corporation, DISH DBS Corporation, DISH Network L.L.C., EchoStar Corporation, EchoStar Technologies L.L.C., Hughes Satellite Systems Corporation, and Sling Media, Inc. (collectively, “Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute *inter partes* review of claims 11 and 13–16 of U.S. Patent No. 7,203,456 B1 (Ex. 1001, “the ’456 patent”). TQ Beta, LLC (“Patent Owner”) filed a Preliminary Response (Paper 9, “Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, we instituted an *inter partes* review to determine the patentability of claims 11 and 13–15 of the ’456 patent. Paper 11 (“Dec. Inst.”).

Subsequent to institution, Patent Owner filed a Corrected Response (Paper 20, “PO Resp.”), and Petitioner filed a Reply (Paper 23, “Pet. Reply”). An oral hearing was held on November 17, 2016, and a transcript of the hearing is included in the record. Paper 29 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(b). This is a Final Written Decision under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons set forth below, we enter adverse judgment against claims 11, 14, and 15, and find Petitioner has not shown by a preponderance of evidence that claim 13 of the ’456 patent is anticipated by Monteiro, obvious over Monteiro and Compton, or obvious over Monteiro, Compton, and Shteyn.

B. Related Matters

Petitioner identifies the following matters that could affect, or be affected by, a decision in this proceeding: (1) *DISH Network L.L.C. et al. v. TQ Beta, LLC*, Case IPR2015-01756 (PTAB); and (2) *TQ Beta, LLC v.*

DISH Network Corporation, et al., Case No. 14-CV-848-LPS-CJB (D. Del.).

Pet. 1. Patent Owner identifies the same matters. Paper 6, 2.

C. Evidence Relied Upon

Reference		Effective Date ¹	Exhibit
Charles L. Compton, Internet CNN NEWSROOM: The Design of a Digital Video News Magazine (B.S. and M.S. Thesis, Massachusetts Institute of Technology)(“Compton”)		Oct. 25–27, 1995 ²	Ex. 1004
Shteyn	US 6,611,654 B1	Apr. 1, 1999 ³	Ex. 1005
Monteiro	US 5,778,187	July 7, 1998	Ex. 1016

D. The Instituted Grounds of Unpatentability

We instituted *inter partes* review of the ’456 patent on the following grounds (Dec. Inst. 21):

Ground	Reference(s)	Basis	Claims Challenged
1	Monteiro	§ 102(b)	11 and 13–15
2	Monteiro and Compton	§ 103(a)	11 and 13–15
3	Monteiro, Compton, and Shteyn	§ 103(a)	11 and 13–15

¹ Unless otherwise indicated, the effective date is the issue date of any issued patent, and the publication date of any published patent application.

² Per the Declaration of Marilyn McSweeney, Head of Acquisitions and Discovery Enhancement at the Massachusetts Institute of Technology Libraries, the effective publication date of the Compton Thesis is one to three business days after October 24, 1995. See Ex. 1015 ¶¶ 10–12.

³ Shteyn was filed on April 1, 1999, and issued on August 26, 2003. It is prior art under 35 U.S.C. § 102(e) with an effective date of April 1, 1999.

II. ANALYSIS

A. *The '456 Patent*

The '456 patent relates to a method and apparatus for time and space domain shifting of broadcast signals. Ex. 1001, Abstract. Receiver 112 in first geographic location 114 receives a broadcast signal (e.g., a radio or television signal) at a first time. *Id.* at 2:10–25. Receiver 112 encodes the broadcast signal into an encoded signal that can be transmitted over world-wide network 116 using, e.g., point-to-point protocol (PPP) or file transfer protocol (FTP). *Id.* at 2:25–33. Media player 118 in second geographic location 114 receives the encoded signal over world-wide network 116. *Id.* at 2:34–48. Media player 118 can either decode and reproduce the encoded signal in real time, or store the encoded signal for subsequent playback at a later time. *Id.* at 2:51–56. The encoded signal can be stored as either an analog or digital signal, and on either magnetic tape (e.g., a video cassette) or a hard disk drive. *Id.* at 2:57–60.

Claim 11 of the '456 patent is independent, and is reproduced below. Other challenged claims depend directly from claim 11.

11. A method comprising:

receiving a signal broadcast in a first geographic location during a first time frame, the signal containing information capable of being reproduced;

encoding the received signal into an encoded signal suitable for transmission via a world wide network;

transmitting the encoded signal via the world wide network;

receiving the encoded signal via the world wide network; and

decoding the encoded signal such that the information is capable of being reproduced; and

reproducing the information during a second time frame, wherein a delay between the first time frame and the second time frame is greater than a delay caused by receiving the signal, encoding the received signal, transmitting the encoded signal, receiving the encoded signal, and decoding the encoded signal.

Ex. 1001, 8:1–18.

B. Claim Construction

The Board interprets claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S.Ct. 2131, 2142–46 (2016). Consistent with the rule of broadest reasonable interpretation, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Only those terms which are in controversy need to be construed and only to the extent necessary to resolve the controversy. *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

Petitioner asks us to construe the terms “*delay between first time frame and second time frame*,” “*first geographic location*,” and “*second geographic location*.” Pet. 12–14. Petitioner does not propose any constructions for these terms, but asks they be construed in the manner

implied by Patent Owner's infringement contentions in the District Court litigation. *Id.* In our Decision to Institute, we declined to expressly construe these claim terms, finding their meaning was readily understood by persons of ordinary skill in the art. Dec. Inst. 6. Neither Petitioner nor Patent Owner contests that decision. See PO Resp. 12–13; Pet. Reply *passim*. Based on the record developed during this proceeding, we find no need to expressly construe these claim terms.

C. Unpatentability of claims 11, 14, and 15

Petitioner argues claims 11, 14, and 15 are anticipated by Monteiro, obvious over Monteiro and Compton, and obvious over Monteiro, Compton, and Shteyn. See Pet. 16–35, 46–51, 55–60. Patent Owner does not contest the patentability of these claims, and has consented to their cancellation. See PO Resp. 2 n.2. Petitioner argues the Board should consider Patent Owner's offer to cancel claims 11, 14, and 15 as a request for adverse judgment. Pet. Reply 1. When Patent Owner was asked during the hearing whether it was conceding the unpatentability of claims 11, 14, and 15, counsel for Patent Owner responded:

MR. SCHARFF: We are not making an argument. I mean, we would have disclaimed those claims, but we didn't have enough time left in order to start that process or request a call. So, basically we are not making any argument. We are not admitting that the claims are invalid, but if the Board cancels them because we haven't responded, we are not contesting those claims.

Tr. 24:12–18.

The Board's rules permit a party to "request judgment against itself at any time during a proceeding." 37 C.F.R § 42.73(b). The Board construes a

party's "[a]bandonment of the contest," as a request for adverse judgment. 37 C.F.R § 42.73(b)(3). Accordingly, we construe Patent Owner's lack of response to Petitioner's various challenges to claims 11, 14, and 15, Patent Owner's offer to cancel claims 11, 14, and 15, and Patent Owner's admission that it was "not contesting those claims," to be an "abandonment of the contest," and a request for adverse judgment. *See* PO Resp. 2 n.2; *see also* Tr. 24:12–18.

The request for entry of adverse judgment on claims 11, 14, and 15 is granted, concurrently with entry of adverse judgment on these same claims in *DISH Network L.L.C. et al. v. TQ Beta, LLC*, Case IPR2015-01756 (PTAB) (Paper 31).

D. Anticipation of Claim 13 by Monteiro

Petitioner alleges claim 13 is anticipated by Monteiro. Pet. 16–32. For the reasons discussed below, we find Petitioner has failed to show, by a preponderance of evidence, that Monteiro anticipates claim 13.

1. Overview of Monteiro (Ex. 1016)

Monteiro discloses a scalable architecture for the delivery of real-time information over a network. Ex. 1016, Abstract. The information can be high-quality audio, video, graphics, or text. *Id.* A user can tune to a particular channel to receive the information, but cannot choose the time at which the information is distributed. *Id.* Figure 1 of Monteiro is reproduced below:

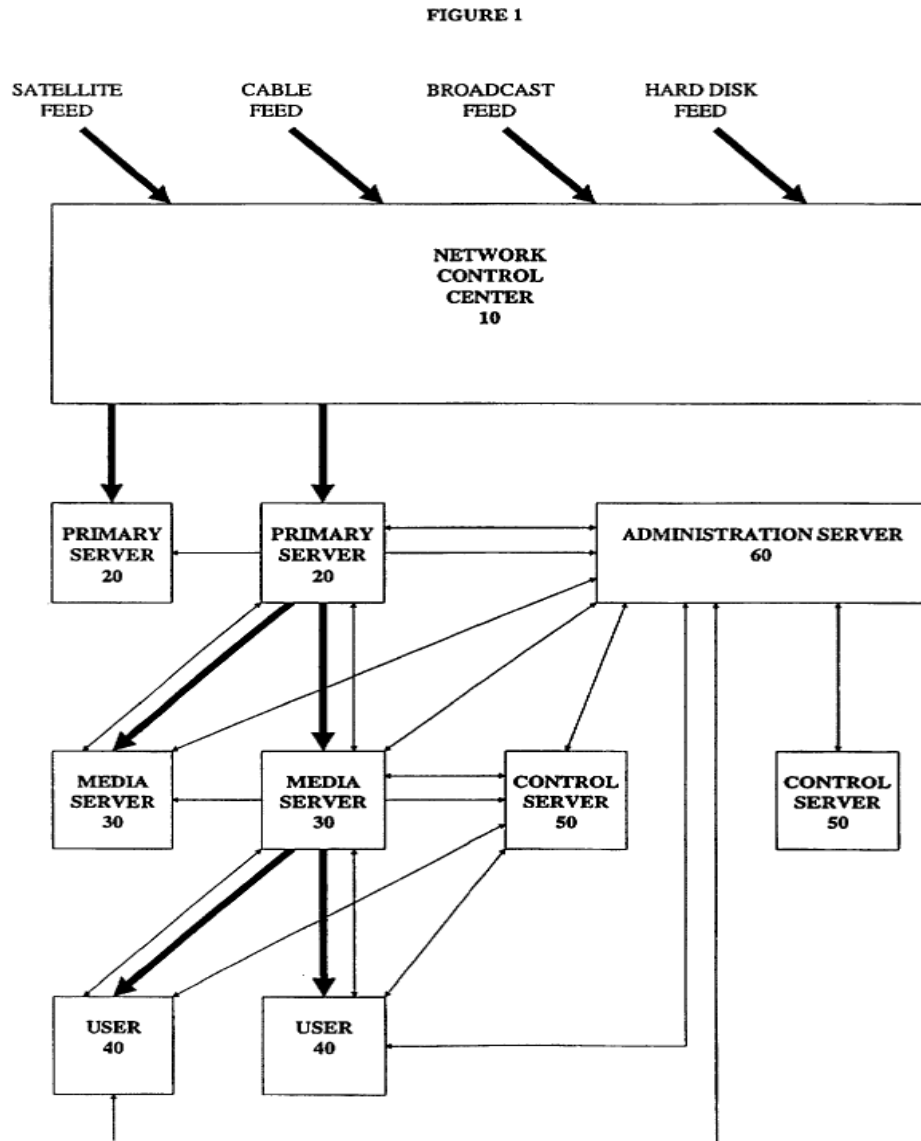


Figure 1 is a schematic illustration of Monteiro's scalable information delivery architecture. Network Control Center 10 receives information from satellite, cable, hard disk, or over the air broadcasts, and distributes the information over the network on multiple channels to end users 40. *Id.* at 2:63–67, Fig. 1. The received information can be a syndicated radio or television program. *Id.* at 4:46–50. In a preferred embodiment, the received information is decoded by Receiver/Decoder 110 in Network Control Center

10 and processed into an audio stream for either live or delayed delivery over the network. *Id.* at 2:8–11, 4:25–29, 4:46–50, Figs. 1–2.

The information received and processed by Network Control Center 10 is subsequently compressed or encoded by Primary Servers 20, and sent to end users 40 over a packet switched network, such as the Internet. Ex. 1016, 3:4–7, 3:57–59, 4:57–60, Fig. 1. Once received at end user computers, the information is decoded and played. *Id.* at 5:14–16, 14:51–53.

2. Comparison of claim 13 to Monteiro

Claim 13 depends from claim 11, and requires all the limitations of claim 11. *See* Ex. 1001, 8:21–22. Claim 13 narrows claim 11 by requiring the broadcast signal, received in a first geographic location during a first time frame, to be a television signal. *Id.* at 8:2–4, 8:21–22. Petitioner argues Monteiro discloses receiving a television signal at Network Control Center 10 via a satellite, cable or broadcast feed. *See* Pet. 16–19, 31–32 (citing Ex. 1016, 1:11–15, 2:56–3:3, 4:25–29, 4:43–52, Figs. 1, 2). Claim 13 further requires encoding the received signal into an encoded signal. *Id.* at 8:5–6. Petitioner argues Monteiro discloses encoding the received television signal at Primary Servers 20 connected to Network Control Center 10. *See id.* at 19–21 (citing Ex. 1016, 3:4–8, 4:25–29, 4:57–5:4, 5:12–14, 5:31–35, 6:56–67, 19:9–16, Figs. 3, 4).

Patent Owner argues Petitioner fails to show Monteiro anticipates claim 13 because Monteiro “only discloses encoding [the] . . . audio information from television broadcasts,” not the entirety of received television broadcasts. PO. Resp. 16. In particular, Patent Owner argues a television broadcast received by Network Control Center 10 is first “processed by Receiver/Decoder 110, which decodes the signal and provides

an incoming audio stream.” *Id.* (quoting Ex. 1016, 4:26–28). Patent Owner argues that it is this audio stream or “audio-only signal,” rather than the received television signal, that is “encoded for transmission over the Internet.” *Id.* Therefore, Patent Owner argues, “Monteiro does not disclose . . . encoding the received television signal ‘into’ an encoded signal,” but instead discloses encoding “an audio stream that is created through processing by the Receiver/Decoder 110 . . . into a format suitable for Internet transmission.” *Id.* at 25. We are persuaded by Patent Owner’s argument.

Monteiro is generally directed to a “distribution architecture [that] provides for the delivery of real-time information to any number of Users distributed throughout a network.” Ex. 1016, 4:2–4. Although Monteiro teaches that “the basic architecture and other principles set forth herein would also apply to the delivery of video . . . over a digital network,” in Monteiro’s preferred embodiment “the information which is distributed consists of high-quality audio.” *Id.* at 4:8–14. Thus, a broadcast television signal received at Network Control Center 10 is “processed by Receiver / Decoder 110, which decodes the signal and provides an incoming audio stream.” *Id.* at 4:25–29. It is this audio stream, rather than the received television signal, that is sent to Primary Servers 20, which “*compress[] the audio stream* using an advanced perceptual technique.” *Id.* at 4:30–35, 57–50 (emphasis added).

Petitioner argues a received television signal can be encoded “even though some of the information from the original signal may be lost during encoding (such as the visual aspects of a television signal)” because the ’456

patent discloses using lossy encoders. Pet. Reply 4. We are not persuaded by Petitioner's argument.

Although we agree with Petitioner that the '456 patent discloses "encoding the received signal" using a lossy encoding algorithm, using a lossy encoding algorithm to encode a signal does not identify the signal to which the encoding algorithm is applied. Claim 13 requires encoding the received television signal—using a lossy or lossless encoding algorithm—and Patent Owner persuasively argues that Monteiro's Primary Servers 20, by compressing an extracted audio stream only, are not encoding *the received television signal*, which has both audio and video components. See PO. Resp. 16–17; Ex. 2003, 2180 (defining a "television signal" as "the *visual and aural signals* that are broadcast together in order to produce the picture and sound components of a television program.") (emphasis added).

Petitioner argues "Monteiro discloses 'encoding the received signal into an encoded signal'" because broadcasted television programs "are compressed by ADPCM encoding at the Primary Server[s]." Pet. 21. But as Patent Owner persuasively explains, Monteiro's Primary Servers compress an audio stream that is extracted from a received television signal, rather than the received television signal itself. See PO. Resp. 16–17, 22–25.

Petitioner next argues that claim 13 is anticipated by Monteiro even if encoding the received television signal requires encoding the audio and video components of the television signal, because Monteiro discloses providing "audio *and/or visual* communications services . . . to a multiplicity of identifiable users on a communications network." Pet. Reply 7 (quoting Ex. 1016, 1:5–8). We are not persuaded by Petitioner's argument.

To anticipate a claim, a prior art reference must “show the claimed invention arranged or combined in the same way as recited in the claim.” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008). Anticipation cannot be shown by combining features from different embodiments of a reference because “differences between the prior art reference and a claimed invention, however slight, invoke the question of obviousness, not anticipation.” *Id.* Thus, to anticipate a claim, “it is not enough that the prior art reference . . . includes multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention.” *Id.*

As noted *supra*, Monteiro’s preferred embodiment discloses the delivery of high-quality audio over the network. Ex. 1016, 4:2–8. Thus, Monteiro discloses extracting the audio component of a received television signal, and compressing the extracted audio component to deliver FM or CD quality audio over the Internet. *Id.* at 4:25–29, 4:57–5:2. Although Monteiro mentions “providing audio and/or visual communication services,” Monteiro does not describe with particularity an architecture for delivering video services. Rather, Monteiro simply discloses that “the basic architecture and other principles set forth herein would also apply to the delivery of video . . . over a digital network.” *Id.* at 1:5–8, 4:8–14. Consequently, we agree with Patent Owner that Monteiro discloses different embodiments for distributing audio and video over the Internet, and Petitioner has failed to show that a single embodiment of Monteiro discloses “encoding the received [television] signal” as required by claim 13.

Accordingly, for the reasons discussed above, we find Petitioner has failed to show by a preponderance of evidence that claim 13 is anticipated by Monteiro.

E. Obviousness of Claim 13 over Monteiro and Compton

Petitioner alleges claim 13 is obvious over the combination of Monteiro and Compton. Pet. 46. In particular, Petitioner alleges—should the Board find Monteiro fails to disclose encoding and decoding the received signal—the combination of Monteiro and Compton teaches or suggests these limitations. *Id.* We analyze the combination under the assumption that Monteiro fails to disclose encoding and decoding the received signal.

1. Overview of Compton (Ex. 1004)

Compton discloses “a digital video news magazine based on content from CNN NEWSROOM, an education news program produced by Turner Educational Services, Inc.” Ex. 1004, Abstract. The CNN NEWSROOM program is a 15-minute daily video program, generally consisting of 3–5 video segments, that is broadcast by CNN over cable television and satellite between 3:45 and 4:00 a.m. each weekday morning. *Id.* at 11.⁴ Compton’s video news magazine uses an MPEG (Motion Picture Expert Group) audio and video encoder to encode the received CNN NEWSROOM broadcasts, and distributes MPEG encoded segments of CNN NEWSROOM broadcasts over the Internet via the World Wide Web. *Id.*

⁴ Petitioner refers to specific pages of Compton by the exhibit numbers stamped on the pages. Patent Owner refers to specific pages of Compton by the original (thesis) page numbers. We adopt Patent Owner’s convention, and refer to specific pages of Compton by the thesis page numbers.

2. *Comparison of Claim 13 to Monteiro and Compton*

As discussed in § II.D.2 *supra*, Petitioner fails to show that Monteiro anticipates claim 13 because Monteiro’s preferred embodiment fails to disclose “encoding the received [television] signal.” Petitioner argues Compton teaches encoding a received television signal (e.g., the CNN NEWSROOM broadcast) by disclosing “audio and video encoding is achieved using the Optibase MPEG Lab Suite system.” Pet. 47 (quoting Ex. 1004, 22–23). Petitioner argues it would have been obvious to combine the teachings of Monteiro and Compton because both references are directed to solving the same problem, namely, “giving a user greater control of the time and place for reproduction of audio or visual information as desired by a user.” *Id.* at 55. Petitioner further argues the combination would have been obvious to a person skilled in the art because storing MPEG decoded files for later playback as taught by Compton would have been obvious to try in the system of Monteiro because Monteiro’s end users had only one other option—storing encoded files—and the combination would yield the predictable result of storing MPEG decoded files on Monteiro’s end user computers.⁵ *Id.* at 54.

Patent Owner argues Petitioner has failed to show claim 13 would have been obvious over Monteiro and Compton because Petitioner has provided “no reasoning or rationale for why one of ordinary skill in the art would have allegedly modified Monteiro in view of Compton specifically to provide the ability to encode a television signal and transmit it over the

⁵ We understand Petitioner’s reference to “predictable results” to refer to successful results.

Internet.” PO Resp. 25. Patent Owner further argues to the extent Petitioner has articulated a reason to modify Monteiro, that reason is wholly conclusory. *Id.* at 27. We are persuaded by Patent Owner’s arguments.

In an *inter partes* review, Petitioner bears the burden of proof. See 35 U.S.C. § 316(e). Thus, Petitioner must “demonstrate both that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.” *Intelligent Bio-Sys., Inc. v. Illumina Cambridge, Ltd.*, 821 F.3d 1359, 1367-68 (Fed. Cir. 2016) (internal quotations omitted).

Petitioner argues one reason to combine Monteiro and Compton is because both references are directed “to giving a user greater control of the time and place for reproduction of audio or visual information as desired by a user.” Pet. 55 (emphasis added). The fact that two references are directed to solving the same problem is an indication that the references are analogous art that *can be* combined. See *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992). It is not, however, a *reason*, in itself, explaining why a person skilled in the art *would have* combined certain specific teachings of the references in a certain way. Even if it might have been obvious, given Monteiro’s teaching to provide audio and/or video communication services, to modify Monteiro’s processing of received television signals to encode and transmit the received signal’s audio and video components as taught by Compton, Petitioner did not make that argument and did not present the evidence in a manner supporting that theory. The Board does not “raise, address, and decide unpatentability theories never presented by the petitioner.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1381 (Fed.

Cir. 2016). Instead, the Board’s decision is based “on arguments that were advanced by a party, and to which the opposing party was given a chance to respond.” *Id.*

Moreover, Petitioner’s assertion that Monteiro is directed to giving users greater control of the time and place for reproduction of audio/video information is not supported by the evidence. In Monteiro, it is the distributor of audio/video information that chooses the distribution time, not Monteiro’s user. For example, Monteiro discloses real-time information can be delivered to any number of users because “the same information is being sent at approximately *the same time* to everyone who is enabled to receive the information.” Ex. 1016, 2:11–16 (emphasis added). Monteiro further discloses that users can “choose[] to tune in or tune out a particular [distribution] channel, but *do[] not choose the time* at which the channel distributes its information.” *Id.* at 2:20–22 (emphasis added). Thus, Monteiro does not allow the user to choose the *time* for video reproduction, and Petitioner fails to articulate a reason why a skilled artisan would have been motivated to modify Monteiro to include the elements of Compton that *would have allowed* the user to choose the time for video reproduction.

Petitioner argues a second reason to combine Monteiro and Compton is that it would have been obvious to try storing MPEG decoded files for later playback in the end user computers of Monteiro, as taught by Compton, because Monteiro’s end users had only one other option—storing encoded files. Pet. 54. Petitioner contends Monteiro discloses storing encoded files on end user computers by disclosing the received information “can be ‘recorded’ at a ‘Delay Recording Workstation’ . . . and that the ‘information’ can be ‘stored locally such as on a hard disk’ at an ‘end User computer’ to

be ‘played back at a later time.’” *Id.* at 30 (citing Ex. 1016, 2:67–3:3, 4:25–29, 4:46–52, 14:51–55, and 16:24–27).

We find the portions of Monteiro cited by Petitioner do not disclose storing encoded broadcast information for later playback at end user computers and, therefore, are not persuaded by Petitioner’s second articulated reason to combine the teachings of Monteiro and Compton. Monteiro discloses receiving broadcast information, and “optionally recording the information for future broadcast.” Ex. 1016, 2:64–3:3. Monteiro discloses processing the received broadcast information at Receiver/Decoder 110, and optionally routing the processed information to Delay Recording Workstation 140, which “is responsible for recording an incoming broadcast so that it can be played back at a later time.” *Id.* at 4:25–38. Monteiro further discloses Supervisory Workstation 150, within Network Control Center 10, controls Playback Control Workstations, Delay Recording Workstations, and other computers to deliver the received information “live and/or played back at a later time” or to deliver alternative information, “such as music . . . that is stored locally such as on a hard disk.” *Id.* at 4:39–52, Fig. 2. Thus, Monteiro discloses storing recorded broadcast information for later playback on the computers in Network Control Center 10, rather than on the computers of end users. Accordingly, because Petitioner has failed to show that Monteiro discloses storing encoded media files on end user computers, Petitioner has also failed to show that it would

have been obvious to, instead, try storing MPEG decoded media files on end-user computers, as taught by Compton.

On this record, and for the reasons indicated above, we find Petitioner has failed to show by a preponderance of evidence that claim 13 is unpatentable over Monteiro and Compton.

F. Ground 3: Obviousness of claim 13 over Monteiro, Compton, and Shteyn

Petitioner alleges claim 13 is obvious over the combination of Monteiro, Compton, and Shteyn. Pet. 55–60. In particular, Petitioner alleges—should the Board find Monteiro or the combination of Monteiro and Compton fail to teach receiving a television signal broadcast in a first location—the combination of Monteiro, Compton and Shteyn teaches or suggests receiving a television broadcast signal in a first location. *Id.* at 55. We analyze the combination under the assumption that neither Monteiro nor Compton teaches the receiving a television broadcast limitation.

1. Overview of Shteyn (Ex. 1005)

Shteyn discloses a system that “enables a subscriber to select a specific broadcast program for recording and a specific location and time frame for play-out of the recorded program.” Ex. 1005, Abstract. Figure 1 of Shteyn is reproduced below:

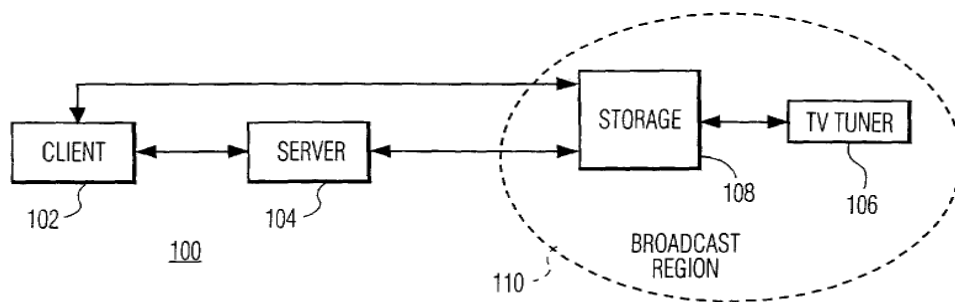


FIG. 1

Figure 1 is a schematic illustration of Shteyn's system for recording a broadcast and playing the broadcast at a specific time and location. The system allows a local or regional broadcast to be "recorded and stored temporarily at a server and then streamed over a data network, e.g., the Internet . . . to a recording device specified by the user as destination." *Id.* at 2:7–11.

2. Claim 13

In arguing that claim 13 is unpatentable over Monteiro, Compton, and Shteyn, Petitioner argues a person of ordinary skill in the art would have been motivated to combine the teachings of Monteiro and Compton for the same reasons discussed in § II.E.2, *supra*. See Pet. 59. As discussed in § II.E.2, Petitioner has failed to articulate reasoning with a rationale underpinning for combining the teachings of Monteiro and Compton. Accordingly, Petitioner has failed to provide "some articulated reasoning with some rational underpinning," *KSR Int'l. Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)), for combining the teachings of Monteiro, Compton, and Shteyn, and has therefore failed to show, by a preponderance of evidence, that claim 13 is unpatentable over Monteiro, Compton, and Shteyn.

III. CONCLUSION

We concurrently enter adverse judgment against claims 11, 14, and 15, herein, and in *DISH Network L.L.C. et al. v. TQ Beta, LLC*, Case IPR2015-01756 (PTAB). Petitioner has failed to show by a preponderance of the evidence that claim 13 is anticipated by Monteiro, unpatentable over Monteiro and Compton, or unpatentable over Monteiro, Compton, and Shteyn.

IV. ORDER

It is ORDERED that adverse judgment is entered against claims 11, 14, and 15 of the '456 patent, and concurrently with entry of adverse judgment on these same claims in *DISH Network L.L.C. et al. v. TQ Beta, LLC*, Case IPR2015-01756 (PTAB) (Paper 31);

FURTHER ORDERED that claim 13 has not been shown to be unpatentable; and

FURTHER ORDERED that, because this Decision is final, a party to the proceeding seeking judicial review of the Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2015-01791
Patent 7,203,456

For PETITIONER:

Eliot Williams
G. Hopkins Guy
eliot.williams@bakerbotts.com
hop.guy@bakerbotts.com

For PATENT OWNER:

Christopher Scharff
Ryan J. Pianetto
Thomas W. Wimbiscus
scharff@mcandrews-ip.com
rpianetto@mcandrews-ip.com
twimbiscus@mcandrews-ip.com