

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

KOJICAST, LLC,
Patent Owner.

IPR2019-01118
Patent 9,749,380 B1

Before KALYAN K. DESHPANDE, GEORGIANNA W. BRADEN, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

BRADEN, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6, and this Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). For the reasons that follow, we determine Petitioner has shown by a preponderance of the evidence that claims 1, 10, 13, and 14 of U.S. Patent No. 9,749,380 B1 are unpatentable.

I. INTRODUCTION

A. Procedural History

Unified Patents Inc. (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1, 10, 13, and 14 of U.S. Patent No. 9,749,380 B1 (Ex. 1001, “the ’380 patent”). Paper 1 (“Pet.”). Kojicast, LLC (“Patent Owner”) did not file a Preliminary Response. Pursuant to 35 U.S.C. § 314(a), we instituted an *inter partes* review of all challenged claims on all proposed grounds of unpatentability. *See* Paper 11 (“Dec. to Inst.”), 37.

Patent Owner did not file a response after institution of trial. The parties agreed to file no additional briefs or motions to exclude. *See* Ex. 3001. Additionally, the parties agreed to forego oral arguments; therefore, no oral argument was held.

B. Real Parties-in-Interest

Petitioner certifies that Unified Patents Inc. is the real party-in-interest. Pet. 1. Patent Owner identifies Kojicast, LLC as the real party-in-interest. Paper 4 (Patent Owner’s Mandatory Notices).

C. Related Matters

Petitioner informs us of one pending district court proceeding involving the ’380 patent and two pending district court proceedings involving the related 9,037,683 patent (“the ’683 patent”), the parent of

the '380 patent. Pet. 1–2. Patent Owner informs us of two terminated district court proceedings involving the '380 patent. Paper 4.

D. The '380 Patent

The '380 patent was filed on April 16, 2015, and is titled “Media Asset Streaming Over Network To Devices.” Ex. 1001, code (54).

The '380 patent issued on August 29, 2017. *Id.* at code (45).

It describes devices directed to the “[s]treaming of a media asset from a cloud server computer to a media playback device.” *Id.* at code (57). One embodiment of the '380 patent is shown in Figure 1, reproduced below.

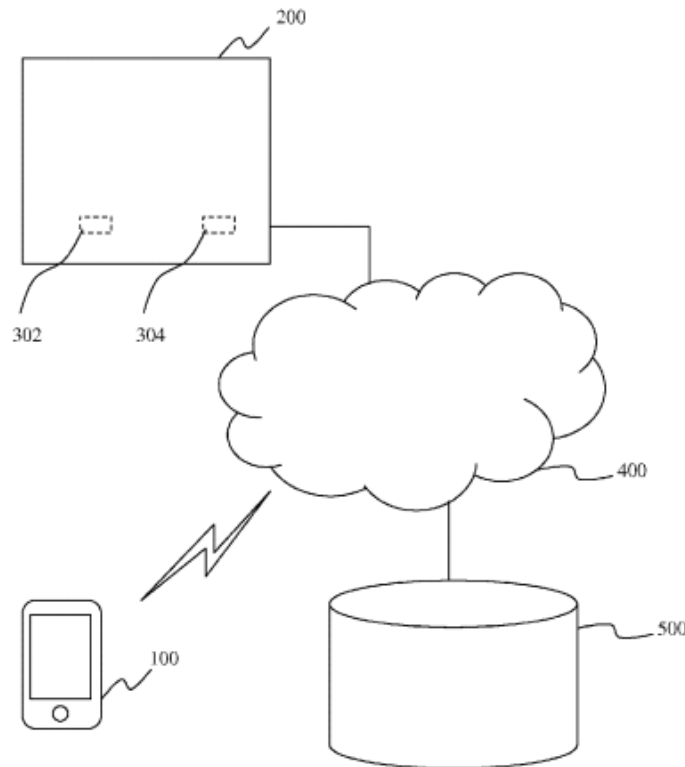


Figure 1 is an illustration of an exemplary network architecture including computing device 100, media-playing device 200, communication circuitry 302, and cloud server computer 500, each interconnected over network 400, which “can be the Internet.” *Id.* at 6:29–34, 7:13, Fig. 1.

According to the '380 patent, “computing device 100 can be a smartphone [or] cell phone,” while media playing device 200 is suitable for playing media assets and may have “a display unit” of up to 60 inches for playing media assets. Ex. 1001, 6:36–52. The '380 patent states that computing device 100 and media-playing device 200 can include, or be coupled to, “close-range communication circuitry” for communication with each other via “close-range communication” (*Id.* at 6:61–7:6), but are encased in different housings. *Id.* at 6:56–60. Not shown in Figure 1, is the coupling of media playing device 200 to processor 301. *Id.* at 9:25–26.

One embodiment of cloud server computer 500 in the '380 patent is shown in Figure 6, reproduced below.

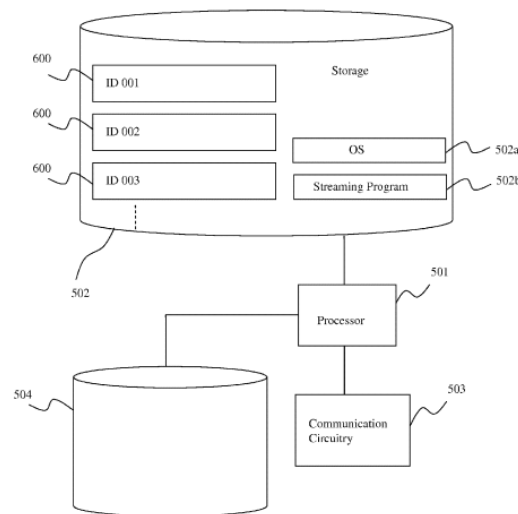


Figure 6 is a block diagram illustrating an exemplary configuration cloud server computer. According to the '380 patent, “cloud server computer 500 mainly has . . . processor 501, storage 502, communication circuitry 503, and storage 504.” Ex. 1001, 10:19–24. The '380 patent states that “communication circuitry 503 is circuitry for connecting to network 400 to receive and send data from and to computing device 100 and media-playing

device 200.” *Id.* at 10:25–28. Processor 501 generally processes instructions of computer programs stored in storage 502 to execute the computer programs, while storage 502 stores computer programs to be executed by processor 501 and user data 600 associated with user IDs. *Id.* at 10:39–41. In order to access media assets and stream data, the ’380 patent discloses that a “user needs to register a unique user ID in cloud server computer 500.” Ex. 1001, 11:33–35.

In one embodiment of the ’380 patent, once a unique user ID is established, a user inputs information on a sensitive graphical user interface (“GUI”) in order to login to cloud server computer 500. *Id.* at 11:36–12:31. An example of a login screen on a sensitive GUI is reproduced below in Figure 8A.



Figure 8A is an illustration of a GUI displayed on a sensitive display of a computing device. Ex. 1001, 3:1–3. After logging in using GUI 102, shown above in Figure 8A, a user can purchase, store, and upload media assets to their cloud server computer 500. *Id.* at 13:20–15:40. The ’380 patent states that if a user has one or more media assets stored as user data associated with his/her user ID in cloud server computer 500, the user can enjoy the media assets through streaming, because the cloud server computer 500, in connection with the computing device 100, performs streaming of a media asset. *Id.* at 15:44–48. One embodiment of a display on computing

device 100 for selecting a destination for streaming media is shown in Figure 8J, reproduced below.

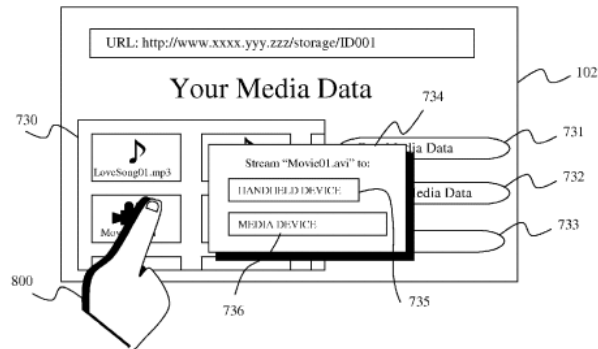


Figure 8J is an illustration of a GUI displayed on a sensitive display of a computing device. Ex. 1001, 3:1–3.

The '380 patent describes using computing device 100 to select a media asset for streaming to media-playing device 200. Ex. 1001, 44:47–53. According to the '380 patent, computing device 100 receives “progress information” from media playing device 200 over close-range communication circuitry, such as that shown in steps S5014 and S5016 of Figure 62, reproduced below.

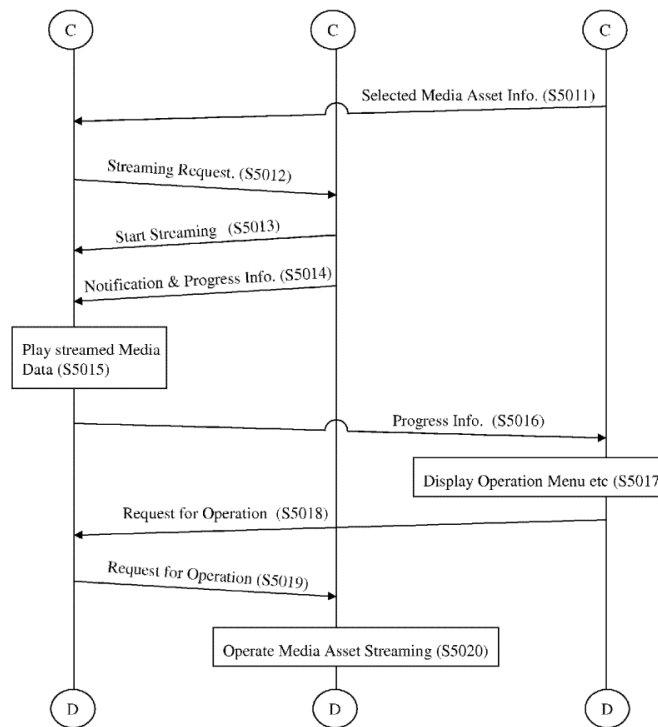


Figure 62 is a flowchart illustrating operations performed by the computing device, the media-playing device, and the cloud server computer.

Ex. 1001, 5:57–60. The '380 patent states that upon starting the streaming, cloud server computer 500 sends to media-playing device 200 a notification that the streaming has been started, and starts sending to media-playing device 200 progress information indicative of progress of the streaming (S5014). *Id.* at 46:13–17, Fig. 62. The '380 patent further states that the notification may contain information indicative of the streamed media asset such as the name of the streamed media asset, the format of the streamed media asset, the duration of the streamed media asset, and the like. *Id.* at 46:17–21.

The '380 patent discloses that the progress information may indicate how far the media asset has been streamed within the duration of the media asset. Ex. 1001, 46:21–23. The '380 patent also discloses that sensitive

display 102 displays the name of the streamed media asset, a progress bar indicative of how far the media asset has been played within the duration of the played media asset, and a graphical menu consisting of the icons for operation of the streaming. *Id.* at 46:39–55, Fig. 63.

E. Illustrative Claims

As noted above, Petitioner challenges claims 1, 10, 13, and 14, with claims 1 and 10 being independent. Challenged independent claims 1 and 10 are reproduced below:

1. A mobile user device, comprising:
 - communication circuitry through which to establish a first communication over the Internet with a server storing a media content and through which to establish a second communication over a close-range communication network with a media playback device, wherein the server and the media playback device are identified by respective discrete IP addresses distinct from the mobile user device;
 - a processor; and
 - a memory storing a computer program including instructions which, when executed by the processor, cause the mobile user device to perform operations comprising:
 - invoking one of a first streaming that delivers the media content destined to the mobile user device and a second streaming that delivers the media content destined to the media playback device;
 - when the first streaming is invoked, receiving the first streaming from the server over the first communication, and playing back the streamed media content on a first graphical user interface;
 - when the second streaming is invoked and the streamed media content is played back by the media playback device based on the second streaming, receiving progress information indicative of progress of the ongoing second streaming from the media playback device over the second communication, and displaying how far the media content is played within a

duration of the media content on a second graphical user interface based on the progress information.

Ex. 1001, 49:51–50:13.

10. A mobile user device, comprising:
 - communication circuitry through which to establish a first network communication with a server and through which to establish a second network communication with one or more media playback devices, wherein the server and the media playback devices are identified by respective discrete IP addresses distinct from the mobile user device;
 - a first graphical user interface active during a first streaming that delivers a media content directed from the server to the mobile user device over the first network communication being in progress, on which the media content is played back based on the first streaming being received from the server over the first network communication; and
 - a second graphical user interface active during a second streaming that delivers the media content directed from the server to one of the one or more media playback devices being in progress so that the streamed media content is played back by the one media playback device, on which how far the media content is played is displayed based on progress information being received from the one media playback device over the second network communication, wherein the progress information is indicative of progress of the second streaming.

Id. at 51:33–52:13.

F. Evidence of Record and Asserted Challenges to Patentability

Petitioner asserts the following challenges to patentability (Pet. 4):

Claims Challenged	35 U.S.C. § ¹	References/Basis
1, 10, 13, 14	103	Klein ² , Blanchet ³ , Spencer ⁴

Petitioner submits (i) the Declaration of Henry H. Houh, Ph.D. (“Dr. Houh”) in Support of Petition for *Inter Partes* Review (Ex. 1014) and (ii) the Declaration of Ingrid Hsieh-Yee, Ph.D. (“Dr. Hsieh-Yee”) (Ex. 1015) regarding the public availability of the Blanchet reference.

II. ANALYSIS

A. Legal Standards

A claim is unpatentable under 35 U.S.C. § 103(a) if “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art;

¹ The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (September 16, 2011) (“AIA”), included revisions to 35 U.S.C. § 100 *et seq.* effective on March 16, 2013. Because the ’380 patent is a child of the ’683 patent that issued from an application filed before March 16, 2013, we apply the pre-AIA versions of the statutory bases for unpatentability.

² U.S. Patent No. 8,537,753 B2, issued Sep. 17, 2013 (Ex. 1006, “Klein”).

³ Blanchet M., “Migrating to IPv6: A practical guide to implementing IPv6 in mobile and fixed networks,” Wiley & Sons, Ltd., 2006 (Ex. 1008, “Blanchet”).

⁴ U.S. Patent No. 8,990,364 B2, issued Mar. 24, 2015 (Ex. 1007, “Spencer”).

(2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations. *See Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17–18 (1966). “[I]t is error to reach a conclusion of obviousness until all [the *Graham*] factors are considered.” *Apple v. Samsung Elecs. Co., Ltd.*, 839 F.3d 1034, 1048 (Fed. Cir. 2016) (en banc) (citations omitted). “This requirement is in recognition of the fact that each of the *Graham* factors helps inform the ultimate obviousness determination.” *Id.*

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burden of proof in *inter partes* review). Furthermore, Petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

Thus, to prevail in an *inter partes* review, Petitioner must explain how the proposed combinations of prior art would have rendered the challenged claims unpatentable. At this final stage, we determine whether a preponderance of the evidence of record shows that the challenged claims would have been obvious over the cited prior art.

B. Level of Ordinary Skill in the Art

In determining whether an invention would have been obvious at the time it was made, we consider the level of ordinary skill in the pertinent art at the time of the invention. *Graham*, 383 U.S. at 17. “The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry.” *Ryko Mfg. Co. v. Nu-Star, Inc.*, 950 F.2d 714, 718 (Fed. Cir. 1991). The person of ordinary skill in the art is a hypothetical person who is presumed to have known the relevant art at the time of the invention. *In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). The level of ordinary skill in the art may be reflected by the prior art of record. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). Factors that may be considered in determining the level of ordinary skill in the art include, but are not limited to, the types of problems encountered in the art, the sophistication of the technology, and educational level of active workers in the field. *GPAC*, 57 F.3d at 1579. In a given case, one or more factors may predominate. *Id.* Generally, it is easier to establish obviousness under a higher level of ordinary skill in the art. *Innovation Toys, LLC v. MGA Entm’t, Inc.*, 637 F.3d 1314, 1323 (Fed. Cir. 2011) (“A less sophisticated level of skill generally favors a determination of nonobviousness . . . while a higher level of skill favors the reverse.”).

Petitioner argues that a person of ordinary skill in the art relevant to the ’380 patent would have had “a B.S. degree in Electrical Engineering, Computer Engineering, or Computer Science, or equivalent training, as well as at least two years of technical experience in the field of computer networking, including streaming media over a computer network.” Pet. 19–20. Petitioner relies on the Declaration of Dr. Houh to support its

contentions. Dr. Houh proffers the same level of skill as that argued by Petitioner but also states that “a lower level of education may be compensated by additional work experience (e.g., 5–6 years).” Ex. 1014, ¶ 32.

Patent Owner does not contest Petitioner’s definition of a person of ordinary skill in the art.

Based on our review of the ’380 patent, the types of problems and solutions described in the ’380 patent and cited prior art, and the testimony of Dr. Houh, we adopt and apply Petitioner’s definition of a person of ordinary skill in the art. Specifically, we find that a person of ordinary skill in the art at the time of the claimed invention would have had “a B.S. degree in Electrical Engineering, Computer Engineering, or Computer Science, or equivalent training, as well as at least two years of technical experience in the field of computer networking, including streaming media over a computer network.”

C. Claim Construction

In an *inter partes* review for a petition filed on or after November 13, 2018, a claim “shall be construed using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b).” *See* Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51,340 (Oct. 11, 2018) (now codified at 37 C.F.R. § 42.100(b) (2019)). In applying this claim construction standard, we are guided by the principle that the words of a claim “are generally given their ordinary and customary meaning,” as understood by a person of ordinary skill in the art in question at the time of the invention. *Phillips v. AWH Corp.*, 415 F.3d 1303,

1312–13 (Fed. Cir. 2005) (*en banc*) (citation omitted). “In determining the meaning of the disputed claim limitation, we look principally to the intrinsic evidence of record, examining the claim language itself, the written description, and the prosecution history, if in evidence.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1006, 1014 (Fed. Cir. 2006) (citing *Phillips*, 415 F.3d at 1312–17). There is a “heavy presumption,” however, “that a claim term carries its ordinary and customary meaning.” *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002) (citation omitted).

Petitioner proposes to construe “streaming” as “means providing a stream of the media asset in a manner where a recipient of the stream is able to play the stream.” Pet. 22–23. Petitioner argues that its proposed construction is the explicit definition provided by the ’380 patent. *Id.* at 23 (citing Ex. 1001, 2:37–39). Patent Owner has not addressed claim construction or provided a proposed construction for this term.

Based on our reading of the record, we agree with Petitioner and interpret “streaming” to mean “sending or receiving a stream of the media asset in a manner where a recipient of the stream is able to play the stream.”

We do not expressly construe any other term. *See, e.g., Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017); *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (“[O]nly those terms need be construed that are in controversy, and only to the extent necessary to resolve the controversy.”).

D. Alleged Obviousness of Claims 1, 10, 13, and 14 of the '380 patent in View of Klein and Blanchet in further view of Spencer

Petitioner contends claims 1, 10, 13, and 14 of the '380 patent are unpatentable under 35 U.S.C. § 103 as obvious in view of Klein and Blanchet in further view of Spencer. Pet. 23–75. Although Patent Owner did not respond to Petitioner's contentions (e.g., Patent Owner did not address any of the specific claim limitations, rationales for combining the prior art, etc.), Petitioner still carries the burden to show that each element of the challenged claims would have been obvious by a preponderance of the evidence. *See Dynamic Drinkware*, 800 F.3d at 1378. In making our determinations below, we are, thus, mindful that it is Petitioner's burden to make the necessary showing.

For reasons that follow, we determine Petitioner has established by a preponderance of the evidence that claims 1, 10, 13, and 14 of the '380 patent are unpatentable under 35 U.S.C. § 103 as obvious in view of Klein and Blanchet in further view of Spencer.

1. Overview of Klein (Ex. 1006)

Klein is a U.S. Patent titled "In-House Location Based Services." Ex. 1006, code (54). Klein is related to streaming media content from a server over a network to one of a plurality of devices in close proximity to each other. Klein discloses the use of a number of electronic devices as elements of a network for the transmission of data, including media content. *Id.* at 2:7–10, 3:64–4:16. Klein teaches the use of a Wi-Fi access point (AP) that can communicate via wireless communication protocols to a first television or a second television, or a mobile device, as shown in Figure 3 reproduced below.

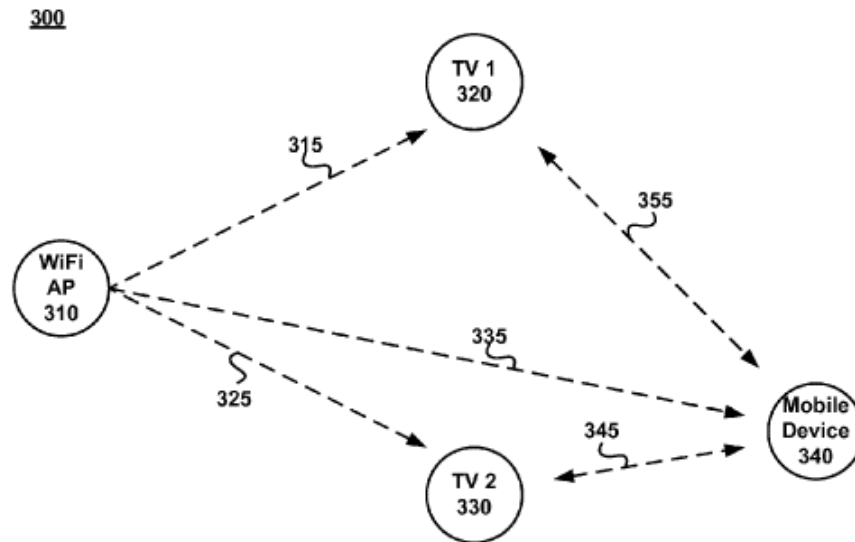


Figure 3 illustrates an arrangement of a Wi-Fi AP, a first television TV 1, a second television TV 2, and a user mobile device such as, for example, a cellular phone, a smart phone, a handheld personal computer, or other nomadic/mobile device. Ex. 1006, 2:16–21. Figure 3 also illustrates that televisions TV1 320 and TV2 330 may be equipped to receive and display media content such as, for example, a still image, motion video, web pages, and other digital information communicated via the AP 310 over wireless communication paths 315 and 325, respectively. *Id.* at 6:42–47. According to Klein, mobile device 340 wirelessly discriminates between first television set TV1 320 and second television set TV 2 330. *Id.* at 6:10–19.

Klein further discloses that a graphical user interface (GUI) may appear as part of a web page on the display of a user's mobile device, as shown below in Figure 4B. *Id.* at 8:29–31.

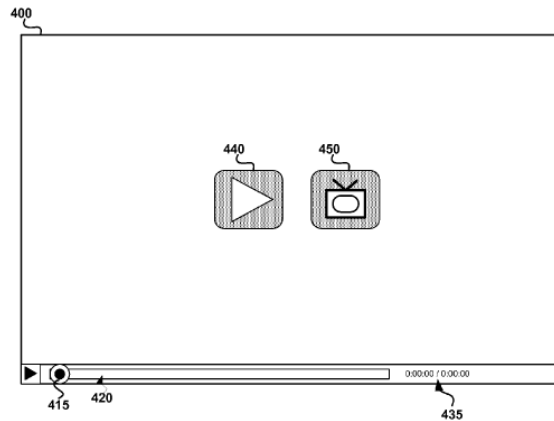


Figure 4B is an illustration of a window of a GUI that may appear, for example, as part of a web page on the display of a user mobile device such as the user mobile device of Figure 3. Ex. 1006, 2:37–40. According to Klein, window 400, shown in Figure 4B above, is provided when viewing media content and includes progress bar 420 representing the entirety of the motion video file, and indicator 415 to show the relative position within the displayed file of the currently displayed image. *Id.* at 8:32–40.

One embodiment in Klein discloses sending media content from a web server to a mobile device via a web server, as shown in Figure 6A reproduced below.

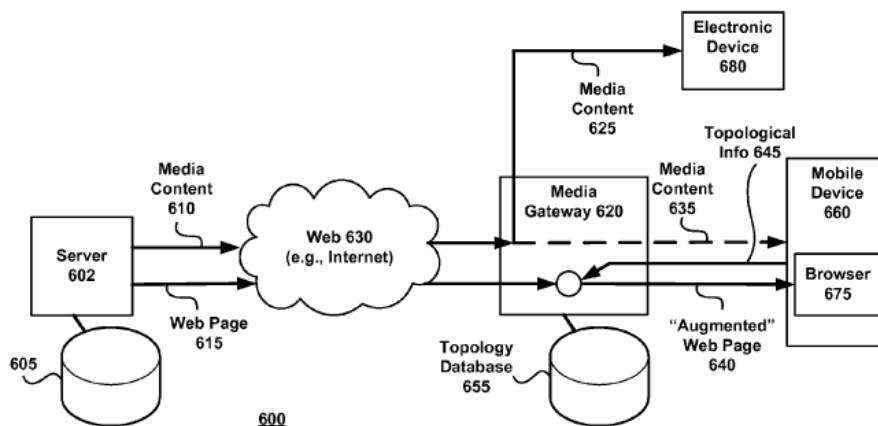


Figure 6A is a block diagram illustrating the elements and information flow of a system in which a web page provided by a web server may be

automatically augmented by a media gateway using topological information gathered by a user mobile device. Ex. 1006, 2:52–57. As shown in Figure 6A above, system 600 comprises web server 602 with storage 605, a communication network represented as web 630, media gateway 620 having topological database 655, and user mobile device 660 with browser 675. *Id.* at 11:38–56. Klein also discloses that system 600 illustrated in Figure 6A includes electronic device 680 capable of rendering media content from web server 602. *Id.* at 11:65–12:1. Klein specifically teaches that user mobile device 660 and electronic device 680 are equipped with wireless communication circuitry to enable communication with each other when in proximity to one another. *Id.* at 12:1–5.

2. *Overview of Blanchet (Ex. 1008)*

Blanchet is a textbook that describes certain versions of the Internet Protocol, IPv4 and IPv6. Specifically, Blanchet teaches the rationale for moving from IPv4 to IPv6 and the practical issues associated with implementing IPv6 in both mobile and fixed networks. *See generally* Ex. 1008, Chapter 1. According to Blanchet, IPv4 was widely used since at least 1990 (*id.* at 2, 27), while the first version of IPv6 was specified in 1995 (*id.* at 28). Blanchet teaches that IP addresses are an essential component of the Internet Protocol. *See generally id.* at Chapter 4. Blanchet explains that while addresses in IPv4 are represented using 32 bits (*id.* at 2), which supports a very large number of unique addresses, the addresses for devices in IPv6 are represented using 128 bits, which is incredibly large. Ex. 1008, 61.

3. *Overview of Spencer (Ex. 1007)*

Spencer is a U.S. Patent titled “Architecture for Content Awareness and Control Among Peer-To-Peer Communication Devices.” Ex. 1007, code (54). Spencer is related to collaboratively presenting content that is distributed among a plurality of communication devices. *Id.* at Abstract. One embodiment of Spencer is illustrated in Figure 1, reproduced below.

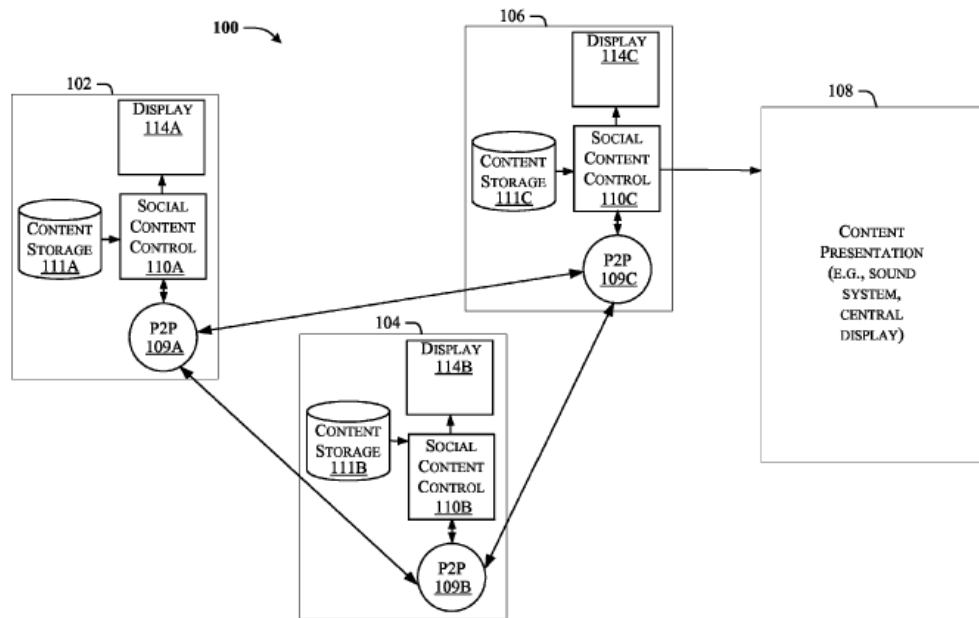


Figure 1 is a block diagram illustrating first communication device 102, second communication device 104, and third communication device 106 (also referred to as a host device 106) in communication with other ones of the communication devices 102, 104, 106. *Id.* at 3:24–27. In this embodiment of Spencer a group of people may collaboratively select, for presentation at content presentation device 108, a play list (also referred to herein as a play queue) of content files that are distributed among all communication devices 102, 104, 106. *Id.* at 3:34–37. The content files may be audio files (e.g., music files), video files, still image files, and/or other types of files. *Id.* at 3:38–40. According to Spencer, any of

communication devices 102, 104, 106 may implement controller functionality to operate as a controller device that has an awareness of content on the communication devices 102, 104, 106 that implement the source functionality; can affect what content is listed in the play list; and can control the presentation of the content. Ex. 1007, 3:64–4:3. In this embodiment of Spencer, host communication device 106 presents the content by passing the content to content presentation device 108, but host communication device 106 may also have a display and/or audio system to present the content to the people in the group. *Id.* at 4:7–11. Spencer discloses that the content files may be “audio files (e.g., music files), video files, still image files, and/or other types of files” (*id.* at 3:38–40) and that “the controllers generally operate to control the play of content (e.g., audio, video, or image media) on the player” (*id.* at 4:47–49).

Spencer teaches that once a controller has joined a session, it can discover and select available media sources for playback via the controller. *Id.* at 6:35–38. When a player starts playback of a specific entry in a play queue, the player will establish session 344 with the source that contains that specific media (*id.* at 6:51–53) as shown in Figure 6, reproduced below.

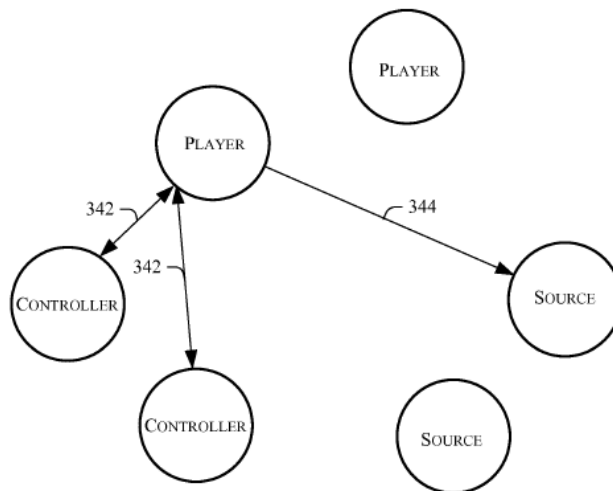


Figure 6 is a diagram illustrating a player connected to one of Spencer's sources for streaming a currently playing media. Ex. 1007, 6:53–55. Additionally, according to Spencer, the controllers are still connected to the player via session 342 so they can receive playback progress updates and control the play/pause state as well as tell the player to seek to a new position within the media. *Id.* at 6:55–59. In the embodiment shown in Figure 6, one of the sources is not actively part of any session since the player is streaming from only one source and neither controller is browsing either of the two sources. *Id.* at 6:56–62.

One embodiment of a graphical user interface in Spencer that includes control to remotely control, from client communication device 102, the presentation of media content is illustrated in Figure 18, reproduced below.

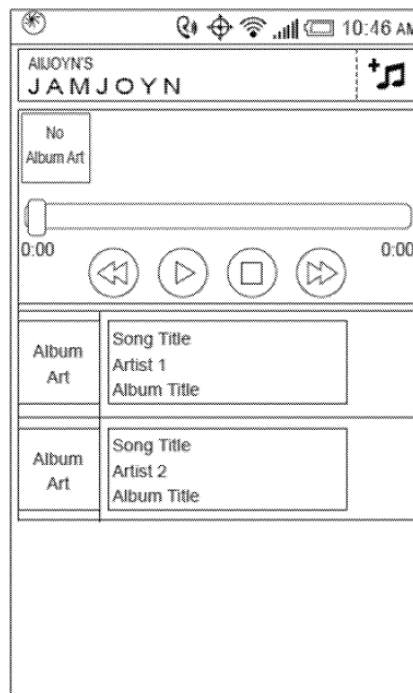


Figure 18 is an illustration of a GUI that includes rewind, play, stop, and fast forward buttons that enable the user of client communication device 1002 to

control the corresponding operations at host communication device 1006. Ex. 1007, 11:7–11. In addition, the user interface depicted in Figure 18, above, includes a progress bar that depicts the progress of a content file that is currently being played. *Id.* at 11:7–11.

4. *Analysis of Cited Art as Applied to Independent Claim 1*

a. *“a mobile device, comprising”*

Claim 1 recites as its preamble “a mobile device, comprising” Ex. 1001, 49:51.

Petitioner contends that to the extent the preamble is considered limiting, Klein discloses a “user mobile device.” Pet. 35–36 (citing Ex. 1006, 4:3–6, 6:4–19, 11:43–47). According to Petitioner, Klein discloses that user mobile devices 140, 340, 660 are “nomadic/mobile” devices (e.g., smart phones) having communication circuitry for communicating with other devices (e.g., access points, televisions) over Wi-Fi, Bluetooth, Near Field Communication (NFC), infrared (IR), and other wireless communication technologies. *Id.* at 36 (citing Ex. 1006, 4:16–31, 6:4–19, 11:58–65). Thus, Petitioner concludes *Klein*’s “user mobile device” is an example of a *mobile user device* as recited in claim 1. *Id.* at 36–37.

“Whether to treat a preamble term as a claim limitation is determined on the facts of each case in light of the claim as a whole and the invention described in the patent.” *Am. Med. Sys., Inc. v. Biolitec, Inc.*, 618 F.3d 1354, 1358 (Fed. Cir. 2010) (internal quotation marks omitted). “Absent clear reliance on the preamble in the prosecution history, or in situations where it is necessary to provide antecedent basis for the body of the claim, the preamble generally is not limiting.” *Symantec Corp. v. Computer Assoc.*

Int'l, Inc., 522 F.3d 1279, 1288 (Fed. Cir. 2008) (internal quotation marks omitted). Additionally, preamble language that merely states the purpose or intended use of an invention generally is not treated as limiting the scope of a claim. *See Boehringer Ingelheim Vetmedica, Inc. v. Schering-Plough Corp.*, 320 F.3d 1339, 1345 (Fed. Cir. 2003); *Rowe v. Dror*, 112 F.3d 473, 478 (Fed. Cir. 1997). Yet, when the limitations in the body of the claim rely upon or derive essential structure from the preamble, then the preamble acts as a necessary component of the claimed invention and is limiting. *See Eaton Corp. v. Rockwell Int'l Corp.*, 323 F.3d 1332, 1339 (Fed. Cir. 2003).

Based on the evidence of record, regardless of whether the preamble is limiting, we determine Petitioner has shown by a preponderance of the evidence that Klein discloses a “mobile device.”

- b. “communication circuitry through which to establish [i] a first communication over the Internet with a server storing a media content and through which to establish [ii] a second communication over a close-range communication network with a media playback device”*

Claim 1 recites “communication circuitry through which to establish [i] a first communication over the Internet with a server storing a media content and through which to establish [ii] a second communication over a close-range communication network with a media playback device.”

Ex. 1001, 49:52–56.

Petitioner contends Klein meets this claim limitation because it discloses that its mobile device 340 supports wireless communications with access point 310 and with other devices 320, 330 (e.g., televisions) in the vicinity. Pet. 37 (citing Ex. 1006, 6:4–19). According to Petitioner, Klein further describes “wireless communication circuitry” as “elements of an

electronic device that permit wireless communication with . . . for example, wireless base stations, access points, and terminals of wireless wide area, local area, personal area, and near-field networks.” *Id.* (citing Ex. 1006, 3:45–51, 4:16–32; Ex. 1014 ¶¶ 94–95).

Petitioner then contends Klein teaches that its mobile device with communication circuitry communicates over the Internet with a server. Pet. 38 (citing Ex. 1006, 12:26–31, Fig. 6A). Petitioner further argues Klein teaches mobile device 660 may communicate wirelessly with electronic device 680 when in proximity to each other. Pet. 38 (citing Ex. 1006, 12:1–5 (“[T]he user mobile device 660 and the electronic device 680 are equipped with wireless communication circuitry to enable them to communicate with each other when in proximity to one another.”), 7:9–14; Fig. 3). According to Petitioner, Klein further teaches that the types of wireless communication circuitry it considers is close-range circuitry that parallels the disclosure of the ’380 patent’s close-range communication circuitry. *Id.* at 38–39 (citing Ex. 1006, 4:24–32; Ex. 1014 ¶ 98).

Petitioner, thus, concludes that Klein’s disclosure of mobile device 660 having circuitry for wireless communication with an access point, which acts as a conduit to server 602 via the Internet, server 602 storing media content for streaming to mobile device 660 (or electronic device 680), and having circuitry for wireless communication with electronic device 680 (example “media playback player” as claimed) are teachings of this claim limitation. *Id.* at 39 (citing Ex. 1014 ¶ 99).

After our review of the evidence of record, we determine Petitioner has shown by a preponderance of the evidence that Klein’s disclosure satisfies the challenged claim limitation.

- c. *“wherein the server and the media playback device are identified by respective discrete IP addresses distinct from the mobile user device”*

Claim 1 recites “wherein the server and the media playback device are identified by respective discrete IP addresses distinct from the mobile user device.” Ex. 1001, 49:56–59.

Petitioner contends the combined teachings of Klein and Blanchet would have rendered this limitation obvious to a person of ordinary skill in the art at the time of the alleged invention of the ’380 patent. Pet. 39. Petitioner first argues that Klein’s Figure 6A presents “an embodiment of an architecture for delivering media content to a mobile device 660 and electronic device 680 over the Internet from a server 602 storing content.” *Id.* at 39–40 (citing Ex. 1006, Fig. 6A). Petitioner then argues that the term “IP” was well known as referring to “Internet Protocol,” and the term “IP address” refers to an address of a device connected to the Internet. *Id.* at 40 (citing Ex. 1014 ¶ 102 (citing Ex. 1039)).

According to Petitioner, a communication is established “over the Internet,” and IP addresses were well known as being used to identify devices that use the Internet Protocol to communicate over the Internet and that both IPv4 and IPv6 refer to versions of the IP protocol developed before the ’380 patent. *Id.* at 40 (citing Ex. 1008, 1, 33–34). Petitioner notes that each version provides a large address space, enabling large numbers of nodes to have unique addresses. *Id.* (citing Ex. 1008, 61 (“IPv4 addresses are 32 bits wide . . . IPv6 addresses are 128 bits wide...”), 30 (the 128-bit address space in IPv6 “enables all nodes to be addressable and reachable”); Ex. 1014 ¶ 103).

We note that both IPv4 and IPv6 provide for devices communicating via the Internet. Ex. 1008, chapter 1. Additionally, we credit Dr. Houh’s testimony regarding the identification of each communication device in Klein by a unique IP addresses as discussed in Blanchet. *See* Ex. 1014 ¶¶ 104–106. Accordingly, based on the evidence of record, we agree with Petitioner and determine it has shown by a preponderance of the evidence that the combined teachings of Klein and Blanchett at least suggest the limitation “wherein the server and the media playback device are identified by respective discrete IP addresses distinct from the mobile user device” as required by challenged claim 1.

d. “a processor”

Claim 1 recites “a processor.” Ex. 1001, 49:60. Petitioner contends this limitation is met by Klein alone or Klein in view of Spencer because Klein discloses various implementations of its “mobile device,” and that it’s “invention may be realized in hardware, software, or a combination of hardware and software.” Pet. 41 (citing Ex. 1006, 18:66–19:2, 20:48–49). According to Petitioner, it would have been obvious to a person of ordinary skill in the art that Klein’s mobile device included a processor because (1) a processor was typically included in mobile devices and (2) the explicit teachings of Spencer disclosing “processing components,” as examples of a “processor” such as that recited in claim 1. *Id.* at 41–42 (citing Ex. 1007, 9:50–57 (“[P]rocessing components” in a communication device “may include a video processor, modem processor, DSP, graphics processing unit (GPU), and other processing components,” Fig. 11; Ex. 1014 ¶¶ 108–110). Petitioner, thus, concludes that Klein alone or Klein in view of Spencer would have rendered a “processor” obvious. Pet. 42 (citing Ex. 1014 ¶ 111).

After our review of the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein's disclosure regarding its "mobile device" includes a processor, thereby satisfying the challenged claim limitation. *See* Ex. 1006, 18:66–19:2, 20:48–49.

- e. "a memory storing a computer program including instructions which, when executed by the processor, cause the mobile user device to perform operations comprising"*

Claim 1 recites "a memory storing a computer program including instructions which, when executed by the processor, cause the mobile user device to perform operations comprising." Ex. 1001, 49:61–63.

Petitioner contends this limitation is met by Klein because Klein discloses that its mobile device has a "memory." Pet. 42 (citing Ex. 1006, 7:36–39). Petitioner notes that Klein also discloses a "computer program product" that causes a "computer system" to carry out methods. *Id.* (citing Ex. 1006, 20:60–21:3).

Petitioner relies on the testimony of Dr. Houh to support its position. Dr. Houh testifies that "it would have been obvious that the 'computer program product' is stored in a memory, and the instructions cause [sic] in the 'computer program product' cause the processor to perform the operations disclosed herein, because this represents fundamental knowledge of a [person of ordinary skill in the art], as disclosed by *Spencer*, for example." Ex. 1014 ¶¶ 112–113.

Petitioner argues that Spencer "confirms a [person of ordinary skill in the art]'s understanding that a 'memory'" in a communication device stores 'executable code' for a 'processing component' that "may include a video

processor, modem processor, DSP, graphics processing unit (GPU), and other processing components.” Pet. 42–43 (citing Ex. 1007, 9:45–57). According to Petitioner, Spencer’s “processing components 1126” execute the instructions, including those for ‘effectuating’ communication via one of the ‘N transceiver chains’.” *Id.* at 43 (citing Ex. 1007, 9:50–65). Thus, Petitioner concludes that Klein in view of Spencer would have rendered a “memory” obvious. *Id.* (citing Ex. 1014 ¶¶ 114–115).

After our review of the evidence of record, we agree with Petitioner and determine it has shown by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation. *See* Ex. 1006, 7:36–39, 20:60–21:3; Ex. 1007, 9:45–65.

f. “invoking one of a first streaming that delivers the media content destined to the mobile user device and a second streaming that delivers the media content destined to the media playback device”

Claim 1 recites “invoking one of a first streaming that delivers the media content destined to the mobile user device and a second streaming that delivers the media content destined to the media playback device.” Ex. 1001, 49:64–67.

Petitioner contends this limitation is met by Klein because Klein discloses graphical user interfaces (GUIs) on a mobile device to allow a user to invoke and direct streaming media content to either the mobile device (an example “mobile user device”) or another electronic device in a local area, such as a “television set” (an example “media playback device”) in a home. Pet. 43 (citing Ex. 1006, 5:44–54, Figs. 4A, 4B). Petitioner argues that Klein discloses that the media content is delivered for viewing via

“streaming,” by providing a stream of the media content where a recipient, for example any “electronic devices in proximity to the mobile device,” are able to reproduce “the streaming media content.” *Id.* at 43–44 (citing Ex. 1006, Abstract). According to Petitioner, Klein discloses a user selecting delivery, using a GUI on a mobile device, of a first streaming to the mobile device (an example “mobile user device”) or a second streaming to a television (an example “media playback device”). *Id.* at 44 (citing Ex. 1014 ¶¶ 116–118). Thus, Petitioner concludes that by “selecting icon 440 in either Figure 4A or Figure 4B, a user invokes “a first streaming that delivers the media content destined to the mobile user device” and by alternatively selecting icon 450 in Figure 4B the user invokes “a second streaming that delivers the media content destined to the media playback device” (e.g., a television), thereby disclosing the challenged limitation of claim 1. *Id.* at 46–47 (citing Ex. 1014 ¶ 123).

After our review of the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein’s system satisfies the challenged claim limitation. *See* Ex. 1006, 5:44–54, 8:49–59, Figs. 4A, 4B.

g. “[i] when the first streaming is invoked, receiving the first streaming from the server over the first communication, and [ii] playing back the streamed media content on a first graphical user interface”

Claim 1 recites “[i] when the first streaming is invoked, receiving the first streaming from the server over the first communication, and [ii] playing back the streamed media content on a first graphical user interface.” Ex. 1001, 50:1–4.

Petitioner contends this limitation is met by Klein because Klein discloses that media content is delivered from server 602 over the Internet and via media gateway 620 to mobile device 660. Pet. 47 (citing Ex. 1006, 3:45–51, 4:16–32, 5:44–54, 6:4–19, 8:49–59, Fig. 4A, 4B, 6A). Petitioner argues that the link between the mobile device and the web server storing the media content is an example of claimed “the first communication.” *Id.* (citing Ex. 1014 ¶¶ 124–126).

Petitioner then contends that Klein would have rendered this limitation obvious to a person of ordinary skill in the art at the time of the invention. *Id.* According to Petitioner, when media, such as video, is played back after selecting icon 440 on Klein’s “window 400 of an exemplary graphical user interface” “provided when viewing media content in the form of motion video,” the graphical user interface is a “first graphical user interface.” *Id.* (citing Ex. 1014 ¶ 127). Petitioner provides as an example Klein’s disclosure that “graphical user interface may be used for viewing files of motion video.” *Id.* (citing Ex. 1006, 8:33–37). Petitioner argues that given that window 400 is a “graphical user interface,” it would have been obvious to give the user the ability to manipulate indicator 415 by moving indicator 415 to the desired time in a video. Pet. 47–48 (citing Ex. 1014 ¶ 128). Thus, Petitioner concludes that “the disclosure of media being played on the display of Klein’s mobile device, the display including an indicator 415 and a progress bar 420, renders obvious the claimed ‘playing back the streamed media content on a first graphical user interface’ once icon 440 is selected.” *Id.* at 48 (citing Ex. 1014 ¶ 129).

Petitioner further contends that Klein in view of Spencer also would have rendered this limitation obvious to a person of ordinary skill in the art

at the time of the invention. *Id.* Petitioner notes that Klein discloses playing back media, such as video, on the mobile device after selecting icon 440 on Klein's "window 400 of an exemplary graphical user interface," while Spencer discloses "controls" on a user interface to control the "presentation of content," including "rewind, play, stop, and fast forward buttons." *Id.* (citing Ex. 1007, 11:5–14). According to Petitioner, "[t]he controls are presented in the context of client device taking on the role of a 'controller' to remotely control the presentation of content." *Id.* Petitioner argues, however, that Spencer is clear this is merely an example in which client device 1002 is used as a controller because "each communication device 1002, 1006 may implement any combination of a source, controller, and player." *Id.* (citing Ex. 1007, 10:17–19). Thus, Petitioner contends Spencer discloses a client device used as both controller and player for playback of media, such as audio or video. *Id.* Petitioner concludes that "[w]hen video is displayed on Klein's mobile device and Spencer's controls for rewind, play, stop and fast forward are displayed on Klein's mobile device during media playback as shown in Spencer's Figure 19, reproduced below, the resulting graphical user interface is substantially similar to example user interfaces from the '380 patent specification." Pet. 48–49 (citing Ex. 1001, 16:44–60; Ex. 1014 ¶ 131).

After our review of the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein alone or Klein in view of Spencer satisfies the challenged claim limitation. *See* Ex. 1006, 3:45–51, 4:16–32, 5:44–54, 6:4–19, 8:49–59, Fig. 4A, 4B, 6A.

- h. “when the second streaming is invoked and the streamed media content is played back by the media playback device based on the second streaming, [i] receiving progress information indicative of progress of the ongoing second streaming from the media playback device over the second communication, and [ii] displaying how far the media content is played within a duration of the media content on a second graphical user interface based on the progress information.”*

Claim 1 recites “when the second streaming is invoked and the streamed media content is played back by the media playback device based on the second streaming, [i] receiving progress information indicative of progress of the ongoing second streaming from the media playback device over the second communication, and [ii] displaying how far the media content is played within a duration of the media content on a second graphical user interface based on the progress information.” Ex. 1001, 50:9–13.

Petitioner contends Klein in view of Spencer would have rendered this limitation obvious to a person of ordinary skill in the art at the time of the invention. Pet. 50. Petitioner argues that when icon 450 is selected on Klein’s mobile device, a “second streaming is invoked and the streamed media is played back by the media playback device based on the second streaming,” as claimed and “as a result of selecting icon 450 (seen in Figure 4B), media content is streamed to selected electronic device, such as device 680.” Pet. 50 (citing Ex. 1006, 11:7–20, 13:17–20, Figs. 4B, 6A; Ex. 1014 ¶ 135).

Petitioner then argues Spencer discloses a generic controller in communication with a player, which is connected to a source of media content and that “controllers generally operate to control the play of content

(e.g., audio, video, or image media) on the player.” Pet. 51 (citing Ex. 1007, 4:45–49, 6:53–55). Petitioner further argues Spencer discloses that any of the “player,” “controller” or “source” may be implemented by a mobile device, such as a smartphone or tablet. *Id.* (citing Ex. 1007, 3:21–27, 3:45–48, 4:50–60; Ex. 1014 ¶¶ 136–139). According to Petitioner, Spencer’s controller receives playback progress updates from a player: “[T]he controllers are still connected to the player via the session 342 so they can receive playback progress updates [from the player] and control the play/pause state as well as tell the player to seek to a new position within the media.” *Id.* at 52 (emphasis omitted) (citing Ex. 1007, 6:53–59; Ex. 1014 ¶ 139). Thus, Petitioner concludes that Klein’s mobile device 660 in communication with media playback device 680, with Klein’s mobile device 660 “receiv[ing] playback progress updates” as disclosed in Spencer, at least teaches or suggests “receiving progress information indicative of progress of the ongoing second streaming from the media playback device over the second communication,” as claimed. *Id.* at 52 (citing Ex. 1014 ¶ 140).

Petitioner further contends Klein describes capability to perform “displaying how far the media content is played within a duration of the media content on a second graphical user interface based on the progress information” because Klein discloses various aspects of window 400 as seen in Figure 4A, with numbering also applying to Figure 4B, including:

a progress bar 420 representing the entirety of the motion video file, and an indicator 415 to show the relative position within the displayed file of the currently displayed image [and] [a]n actual indication of the current elapsed time and the total duration of the motion video file is shown as elapsed and total time indicator 435. During viewing, the position of the indicator 415 along the

progress bar 420 represents relative progress in playback of the motion video file.

Pet. 52 (citing Ex. 1006, 8:37–48; Ex. 1014 ¶ 141).

Petitioner acknowledges that Klein does not explicitly disclose its mobile device receiving playback progress updates from an associated electronic device, such as a television set, but nonetheless argues that it would have been obvious to display how far media content on the associated electronic device is played using Klein’s “progress bar” on the mobile device, based on Spencer’s disclosure of “receiv[ing] playback progress updates” from a “player,” because Spencer, like Klein, also discloses a “progress bar” to display progress information. Pet. 54 (citing Ex. 1014 ¶ 143). Petitioner cites to Klein’s Figure 4B, with progress updates shown on progress bar 420 while streaming media, as an example of the “second graphical user interface.” *Id.* Petitioner argues that to the extent the “second graphical user interface” includes more features, Spencer also explicitly discloses using this progress information to provide remote control of a media player and providing buttons on a graphical user interface, such as would have been provided on Klein’s display, to provide the control. *Id.* at 54–55 (citing Ex. 1007, 11:5–15, 11:31–36, Figs. 18, 19).

After our review of the evidence of record, we agree with Petitioner’s position regarding Klein and Spencer. Accordingly, we determine Petitioner has met their burden by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation.

i. Rationale to Combine Klein, Blanchet, and Spencer

Petitioner contends a person of ordinary skill in the art would have many motivations to combine the teachings of Spencer with the teachings of

Klein, because: (1) both references are in the same field as the '380 patent of streaming media from a computer over a network to devices (Pet. 31 (citing Ex. 1006, Fig. 6A; Ex. 1007, Figs. 1, 6, 1:23–27, 6:53–56)); and (2) both references address graphical user interfaces for playing media content on various networked devices (*id.* (citing Ex. 1006, 1:38–39, 2:32–43, Figs. 4A, 4B; Ex. 1007, 3:15–17, Figure 18)) and combining the references yields the obvious, predictable, and beneficial results of (i) specifying, in detail, how Klein's mobile device (e.g., mobile device 660 in Figure 6A) would obtain progress information to present on its progress bar (e.g., progress bar 420 in Figure 4B) when the media stream is sent to another electronic device (e.g., electronic device 680 in Figure 6A); (ii) providing information for Klein's progress bar and explaining what icons to present on Klein's graphical user interface to facilitate pause, stop, rewind and fast-forward controls to use Klein's mobile device beneficially as a remote control; and (iii) confirming the understanding of a person of ordinary skill in the art regarding the hardware components used in Klein's mobile device (*id.* (citing Ex. 1014 ¶ 83)). Petitioner provides multiple examples and arguments supporting each contention listed above. *See* Pet. 32–35.

Petitioner further contends that a person of ordinary skill in the art would have been motivated to combine the teachings of Klein with the teachings of Blanchet for multiple reasons. Petition specifically argues that using either IPv4 or IPv6, as described in Blanchet, yields the obvious, predictable, and beneficial results of (1) describing existing protocols for communication over Klein's "Internet" 630 in the example architecture of Figure 6A, and (2) specifying addresses identifying each of devices server 602, electronic device 680, and mobile device 660 (and any other

electronic devices communicating over the Internet). *Id.* at 27–28 (citing Ex. 1014 ¶ 71). According to Petitioner, Klein discloses that its mobile device determines the identity of electronic device 680 in Figure 6A, but the “identity” is described generically in Klein, leaving it to a person of ordinary skill in the art to fill in the implementation details. *Id.* at 28 (citing Ex. 1006, 12:6–19). Thus, Petitioner argues that a person of ordinary skill in the art interested in designing or implementing a network would have been motivated to use existing protocols for communications over the Internet, such as those taught by Blanchet, because Blanchet specifies addresses identifying each of devices server 602, electronic device 680, and mobile device 660 (and any other electronic devices communicating over the Internet). *Id.* at 27–28 (citing Ex. 1014 ¶¶ 72–73).

Petitioner also argues that Klein discloses communications over the “Internet” 630, but does not specify the network protocol used to perform the communications, so a person of ordinary skill in the art would have been motivated to specify this implementation detail using Blanchet’s teaching of the IPv4 and IPv6 protocols for communication over the Internet as well. Pet. 28–29 (citing Ex. 1014 ¶ 73). According to Petitioner, there was a reasonable expectation of success in using IPv4 or IPv6 and specifying addresses of devices in such a manner. *Id.* at 29 (citing Ex. 1014 ¶ 74 (citing Ex. 1011)). Therefore, Petitioner concludes there was a reasonable expectation of success of using either IPv4 or IPv6, as described in Blanchet, for Klein’s connecting devices. *Id.* (citing Ex. 1014 ¶¶ 74–76).

We have considered all arguments and supporting evidence regarding the rationale for combining the teachings of Klein with Blanchet and Spencer, and find Petitioner articulates a reasoning with a rationale

underpinning that a person of ordinary skill in the art would have combined the teachings from the cited prior art to arrive at the inventions recited in the challenged claims. *KSR Int’l Co. v. Teleflex Inc.*, 127 U.S. 398, 418 (2007). A motivation to combine may be found “explicitly or implicitly in market forces; design incentives; the ‘interrelated teachings of multiple patents’; ‘any need or problem known in the field of endeavor at the time of invention and addressed by the patent’; and the background knowledge, creativity, and common sense of the person of ordinary skill.” *ZUP, LLC v. Nash Mfg., Inc.*, 896 F.3d 1365, 1371 (Fed. Cir. 2018) (quoting *Plantronics, Inc. v. Aliph, Inc.*, 724 F.3d 1343, 1354 (Fed. Cir. 2013)). Based on the evidence of record, Petitioner relies on Blanchet and Spencer to provide more explicit teachings for Klein’s mobile device system. Given Klein’s teaching regarding the use of the Internet and of progression bars, we agree with Petitioner that a person of ordinary skill in the art would have had reason to turn to the teachings of Blanchet and Spencer for use with Klein’s system.

j. Summary regarding Independent Claim 1

Based on the foregoing, we conclude Petitioner has demonstrated by a preponderance of the evidence that challenged independent claim 1 would have been obvious under 35 U.S.C. § 103 in view of the combined teachings of Klein, Blanchet, and Spencer.

5. Analysis of Cited Art as Applied to Independent Claim 10

a. “a mobile device, comprising”

Claim 10 recites as its preamble “a mobile device, comprising . . .”
Ex 1001, 51:33.

Petitioner contends, to the extent the preamble is considered limiting, Klein discloses a “user mobile device.” *See 4.a above*

Based on the evidence of record, regardless of whether the preamble is limiting, we determine Petitioner has shown by a preponderance of the evidence that Klein discloses “a mobile user device” as recited in claim 1.

- b. “communication circuitry through which to establish a first network communication with a server and through which to establish a second network communication with one or more media playback devices wherein the server and the media playback devices are identified by respective discrete IP addresses distinct from the mobile user device”*

Claim 10 recites “communication circuitry through which to establish a first network communication with a server and through which to establish a second network communication with one or more media playback devices wherein the server and the media playback devices are identified by respective discrete IP addresses distinct from the mobile user device.”

Ex. 1001, 51:34–40.

Petitioner contends the combination of Klein, Blanchet, and Spencer meets this claim limitation for reasons similar to those discussed previously. Pet. 57–59; *see 4.b–c, supra*.

Based on the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein in view of Blanchet and Spencer satisfies the challenged claim limitation.

- c. *“a first graphical user interface active during a first streaming that delivers a media content directed from the server to the mobile user device over the first network communication being in progress, on which the media content is played back based on the first streaming being received from the server over the first network communication”*

Claim 10 recites “a first graphical user interface active during a first streaming that delivers a media content directed from the server to the mobile user device over the first network communication being in progress, on which the media content is played back based on the first streaming being received from the server over the first network communication.” Ex. 1001, 51:41–52:3.

Petitioner contends this limitation is met by Klein. Pet. 59–62. Petitioner argues the GUI shown in Figure 4A of Klein on the mobile device 660 displays media content 610 delivered from the server 602 to the mobile device 660. *Id.*; see Fig. 6A.

Petitioner also contends this limitation is rendered obvious by Klein in view of Spencer because Spencer simply adds “controls for rewind, play, stop and fast forward” to the GUI shown in Figure 4A of Klein. Pet. 62 (citing Ex. 1007, Fig. 19).

Based on the evidence of record, we agree with Petitioner and determine it has shown by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation.

- d. *“a second graphical user interface active during a second streaming that delivers the media content directed from the server to one of the one or more media playback devices being in progress so that the streamed media content is played back by the one media playback device”*

Claim 10 recites “a second graphical user interface active during a second streaming that delivers the media content directed from the server to one of the one or more media playback devices being in progress so that the streamed media content is played back by the one media playback device” Ex. 1001, 52:4–9.

Petitioner contends this limitation is met by Klein. Pet. 62–66. Petitioner argues the GUI shown in Figure 4B of Klein is the second graphical interface that, when icon 450 is selected, “enables a user to direct media content from a server to a media playback device.” *Id.* at 62–63 (citing Klein 8:49–59). Specifically, Petitioner argues selecting the icon 450 triggers the server 602 to send media content 610/625 to electronic device 680 for display. *Id.* at 63–64; Ex. 1006, Fig. 6A.

Petitioner also contends this limitation is rendered obvious by Klein in view of Spencer because Spencer simply adds the disclosure of receiving playback progress updates from another display device. Pet. 66.

Based on the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation.

- e. *“on which how far the media content is played is displayed based on progress information being received from the one media playback device over the second network communication, wherein the progress information is indicative of progress of the second streaming”*

Claim 10 recites “on which how far the media content is played is displayed based on progress information being received from the one media playback device over the second network communication, wherein the progress information is indicative of progress of the second streaming.”

Ex. 1001, 52:9–14.

Petitioner contends this limitation is met by Klein in view of Spencer. Specifically, Petitioner argues Klein discloses the mobile device 660 is in communication with media playback device 680 and Spencer discloses receiving “playback progress updates.” Pet. 67. Accordingly, as Klein discloses in Figure 4B an “indicator 415 to show the relative position within the displayed file,” Petitioner argues a person of ordinary skill in the art would have been motivated by Spencer’s disclosure of “receiv[ing] playback progress updates” to move the indicator 415 according to the progress of the media content displayed on the media playback device 680. *Id.* at 67–68.

Based on the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation.

6. *Analysis of Cited Art as Applied to Claim 13*

- a. *“A mobile user device according to claim 10”*

See analysis of claim 10.

- b. “wherein the second graphical user interface is active through which to receive a second user input responsive to which to terminate the ongoing second streaming and invoke another second streaming that delivers the media content directed to another media playback device”*

Claim 13 recites “wherein the second graphical user interface is active through which to receive a second user input responsive to which to terminate the ongoing second streaming and invoke another second streaming that delivers the media content directed to another media playback device.” Ex. 1001, 52:29–34.

Petitioner contends this limitation is met or rendered obvious by Klein. Petitioner argues Klein discloses there may be multiple icons 450 in Figure 4B of Klein, each icon representing an electronic device for playing back media content. Pet. 70–71 (citing Ex. 1006, 9:1-15; Ex. 1014 ¶ 179). Petitioner further notes that Klein discloses an example of playing content on one electronic device and moving that content to another electronic device. *Id.* at 71 (citing Ex. 1006, 5:63–6:3). Accordingly, Petitioner argues a person of ordinary skill in the art would have been motivated to make the graphical user interface on the mobile device in Klein remain “active through which to receive a second user input” during the streaming of media content to continue to, in mid-stream, play the media content on another electronic device. Pet. 71–72; Ex. 1014 ¶ 182.

Based on the evidence of record, we determine Petitioner has met its burden by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation.

7. *Analysis of Cited Art as Applied to Claim 14*

- a. *“A mobile user device according to claim 13 wherein the second graphical user interface displays one or more icons each of which is associated with another or the other media playback devices; wherein the second user input includes selection of one of the displayed icons; and wherein the invoking another second streaming is invoking the another second streaming that delivers the media content directed to another media playback device corresponding to the selected icon”*

Petitioner contends this limitation is met or rendered obvious by Klein for the same reasons it renders claims 10 and 13 obvious. Pet. 72–75 (citing Ex. 1014 ¶¶ 185–189).

Based on the evidence of record, and for reasons similar to those discussed in regard to claim 13, we determine Petitioner has met its burden by a preponderance of the evidence that Klein in view of Spencer satisfies the challenged claim limitation.

III.CONCLUSION⁵

We determine Petitioner has shown by a preponderance of the evidence that claims 1, 10, 13, and 14 of the '380 patent would have been obvious in view of Klein, Blanchet, and Spencer. In summary:

Claims	35 U.S.C. §	Reference(s)/ Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1, 10, 13, 14	103	Klein, Blanchet, Spencer	1, 10, 13, 14	
Overall Outcome			1, 10, 13, 14	

⁵ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*, 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner has shown by a preponderance of the evidence that claims 1, 10, 13, and 14 of the '380 patent are unpatentable; and

FURTHER ORDERED that parties to the proceeding seeking judicial review of this Final Written Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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Patent 9,749,380 B1

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