

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MG FREESITES LTD.,
Petitioner,

v.

SCORPCAST, LLC,
Patent Owner.

IPR2021-00515
Patent 10,205,987 B2

Before MEREDITH C. PETRAVICK, HYUN J. JUNG, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. § 42.4

I. INTRODUCTION

Petitioner MG FreeSites Ltd. filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1–5, 7, 11, 12, 15–20, 23–27, and 30 of U.S. Patent No. 10,205,987 B2 (Ex. 1001, “the ’987 patent”). Patent Owner Scorpcast, LLC filed a Preliminary Response (Paper 7, “Prelim. Resp.”).

With our authorization (Paper 10), Petitioner filed a Reply to the Preliminary Response (Paper 13) to address the factors set forth in *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, 5–6 (PTAB Mar. 20, 2020) (precedential) that inform our exercise of discretion under 35 U.S.C.

§ 314(a). Patent Owner filed a Sur-Reply, stating that in light of recent developments in related litigation, Patent Owner no longer asserts that the factors of *Apple Inc. v. Fintiv, Inc.* favor discretionary denial. Paper 14, 1. We, thus, consider moot Patent Owner’s request for discretionary denial (Prelim. Resp. 45–49).

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless the information presented in the Petition and any response thereto shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Taking into account the Petition, the arguments presented in the Preliminary Response, as well as all supporting evidence, we determine that Petitioner has failed show a reasonable likelihood that at least one of the challenged claims is unpatentable. Accordingly, we do not institute *inter partes* review.

A. Related Matters

The parties state that the ’987 patent was asserted in *Scorpcast, LLC dba HaulStars v. MG Freesites Ltd*, Case No. 6-20-cv-00877 (W.D. Tex.).

Pet. xxviii; Paper 4, 2. On June 21, 2021, the District Judge transferred this case to the District of Delaware, *Scorpcast, LLC dba HaulStars v. MG Freesites Ltd*, Case No. 1:21-cv-00887. Paper 12, 1–2; Paper 14, 1.

Patent Owner also states that a decision in this proceeding would affect or be affected by numerous other *inter partes* reviews and District Court proceedings. Paper 4, 2–4. The '987 patent is the subject of IPR2021-00514.

B. The '987 Patent

The '987 patent is titled “Interactive Video Distribution System and Video Player Utilizing a Client Server Architecture” and issued on February 12, 2019. Ex. 1001, codes (45), (54). The '987 patent claims priority through a chain of related U.S. Patent Applications to April 19, 2012. *Id.* at code (63).

The '987 patent describes a website receiving and storing user-uploaded videos, for example, product reviews. *Id.* at 20:41–44, 23:29–33. The website also receives and stores a product tag, associated with a reviewed product, and the tag includes pictures. *Id.* at 21:32–55. The tags are displayed during video playback. *Id.* at 12:19–26. The tags are displayed at various locations within the video player, such as part of the video playback scrubber or embedded into the video (*id.* at 8:42–43, 21:48–50), and are selectable by the user (*id.* at 24:31–36).

C. Challenged Claims

Petitioner challenges claims 1–5, 7, 11, 12, 15–20, 23–27, and 30. Claims 1, 20, and 26 are independent claims. Claims 2–5, 11, 12, and 15–19

depend from claim 1. Claims 23–25 depend from claim 20. Claims 27 and 30 depend from claim 26.

Claim 1 is illustrative and reproduced, as corrected by the May 2019 Certificate of Correction, below:¹

[1.P] 1. A video system, comprising:

[1.1] a network interface;

[1.2] at least one processing device;

[1.3] non-transitory memory storing programmatic code that when executed by the at least one processing device, cause the video system to:

[1.4] provide to a first user terminal of a first user interface that enables the first user to upload a first video or provide a link to the first video;

[1.5] receive over a network using the network interface, from the first user terminal of the first user, an upload of a first video or a link thereto;

[1.6] provide over the network, using the network interface, to the first user terminal a second user interface that enables the first user to:

provide at least one of an upload or a link to an image,

add text to be associated with the image,

add a link to be associated with the image;

[1.7] receive via the second user interface:

an upload of or a link to a first image;

¹ Claim 1 is reproduced with Petitioner's labels. Pet. xv–xvii.

a first item of text; and

a first link, comprising a first destination Uniform Resource Locator (URL);

[1.8] store the upload of or a link to the first image, the first item of text, and the first link;

[1.9] use a content player displayed on the first user terminal to display the first video in association with a scrubber bar;

[1.10] enable the first user to define, using the scrubber bar and a first control, when the first image is to be displayed as an overlay when the first video is played back;

[1.11] receive from the first user a definition as to when the first image is to be displayed as an overlay when the first video is played back;

[1.12] store the definition as to when the first image is to be displayed when the first video is played back;

[1.13] receive via the second user interface:

an upload of or a link to a second image;

a second item of text; and

a second link, comprising a second destination Uniform Resource Locator (URL);

[1.14] store the upload of or a link to the second image, the second item of text, and the second link;

[1.15] enable the first user to define, using the scrubber bar and the first control, when the second image is to be displayed as an overlay when the first video is played back;

[1.16] receive from the first user a definition as to when the second image is to be displayed as an overlay when the first video is played back;

[1.17] store the definition as to when the second image is to be displayed when the first video is played back;

[1.18] provide a video player for display on a second user terminal of a second user;

[1.19] enable the video player to play the first video, and display:

the first image as an overlay in accordance with the definition as to when the first image is to be displayed when the first video is played back;

the second image as an overlay in accordance with the definition as to when the second image is to be displayed when the first video is played back;

[1.20] wherein in response to detecting that the second user has selected the first or the second image, a respective link, comprising a respective destination URL is activated, and a respective network destination corresponding to the respective destination URL is accessed by the second user terminal.

Ex. 1001, 57:6–58:6, Certificate of Correction.

D. Alleged Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–4, 11, 12, 15–18, 20, 23, 25, 26, 30	102(a),(b),(e)	Fink ²
5	103(a)	Fink, Lerman ³
7	103(a)	Fink, Miller ⁴

² Fink et al., U.S. Patent Application Publication No. 2009/0300475 A1, published Dec. 3, 2009 (Ex. 1007) (“Fink”).

³ Lerman et al., U.S. Patent No. 7,809,802 B2, issued Oct. 5, 2010 (Ex. 1013) (“Lerman”).

⁴ Michael Miller, *YouTube for Business: Online Video Marketing for Any Business*, second edition, Jan. 2011 (Ex. 1010) (“Miller”).

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
19	103(a)	Fink, Sterner ⁵
24	102(a)	Fink, Kilar ⁶
27	103(a)	Fink, Lerman, Sterner
1–4, 11, 12, 15–18, 20, 23, 25, 26, 30	103(a)	Fink, Geer ⁷
5	103(a)	Fink, Geer Lerman
7	103(a)	Fink, Geer, Miller
19	103(a)	Fink, Geer, Sterner
24	103(a)	Fink, Geer, Kilar
27	103(a)	Fink, Geer, Lerman, Sterner

Pet. 1–2. In addition to the references listed above, Petitioner relies on the Declaration of Dr. Adam Porter (Ex. 1102).

II. ANALYSIS

A. Principles of Law

A petition must show how the construed claims are unpatentable under the statutory grounds it identifies. 37 C.F.R. § 42.104(b)(4). Petitioner bears the burden of demonstrating a reasonable likelihood that it would prevail with respect to at least one challenged claim for a petition to be granted. 35 U.S.C. § 314(a).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d

⁵ Sterner et al., U.S. Patent Application Publication No. 2007/0263984 A1, published Nov. 15, 2007 (Ex. 1008) (“Sterner”).

⁶ Kilar et al., U.S. Patent Application Publication No. 2013/0004138 A1, published Jan. 3, 2013 (Ex. 1012) (“Kilar”).

⁷ Geer, III et al., U.S. Patent Application Publication No. 2011/0112915 A1, published May 12, 2011 (Ex. 1005) (“Geer”).

628, 631 (Fed. Cir. 1987). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990).

A claim is unpatentable under § 103(a) if the differences between the claimed subject matter 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; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) when in evidence, objective indicia of non-obviousness (*i.e.*, secondary considerations). *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

We analyze the asserted grounds with these principles in mind.

B. Level of Ordinary Skill in the Art

In determining the level of skill in the art, we consider the type of problems encountered in the art, the prior art solutions to those problems, the rapidity with which innovations are made, the sophistication of the technology, and the educational level of active workers in the field. *Custom Accessories, Inc. v. Jeffrey-Allan Indus. Inc.*, 807 F.2d 955, 962 (Fed. Cir. 1986); *Orthopedic Equip. Co. v. U.S.*, 702 F.2d 1005, 1011 (Fed. Cir. 1983).

Petitioner contends that a person of ordinary skill in the art at the time of the invention of the '987 patent would have had the following education and experience: “a Bachelor’s degree in Electrical Engineering, Computer Engineering, or Computer Science (or the equivalent degree) plus

approximately two years of work experience with technologies relating to content annotation and/or content sharing among multiple users.” Pet. 17. Petitioner adds that “[m]ore education can supplement work experience and vice versa.” *Id.* (citing Ex. 1102 ¶¶ 1–21). Patent Owner does not dispute this level of skill. Prelim. Resp. 5.

For purposes of this Decision, we adopt Petitioner’s proposal as reasonable and consistent with the prior art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (the prior art may reflect an appropriate level of skill in the art).

C. Claim Construction

For petitions filed on or after November 13, 2018, the “broadest reasonable interpretation” standard has been replaced with the federal court claim construction standard that is used to construe a claim in a civil action under 35 U.S.C. § 282(b). This is the same claim construction standard articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and its progeny.

Petitioner does not provide any explicit construction of any claim terms. *See generally*, Pet. Citing to a number of descriptions in the ’987 patent, Patent Owner contends that the plain and ordinary meaning of the claim term “‘scrubber bar’ requires that the bar allow a user to scrub or navigate through the video using the bar itself.” Prelim. Resp. 13–14 (emphasis omitted) (citing Ex. 1001, 6:15–17, 8:49–53, 44:31–21 [*sic*, 44:31–32])).

We agree with Patent Owner. The ’987 patent describes the scrubber bar allowing a user to navigate (i.e., scrub) through a video using a bar. Ex. 1001, 6:15-17 (“[o]ther controls may include pause, fast forward,

rewind, play, skip segment, and/or scrubber controls”), 8:49–53 (“a scrubber area (e.g., an area including a scrubber bar or other control that a user can utilize (e.g., by dragging a scrubber control in a scrubber timeline) to indicate where the user wants the video playback to begin or to browse frames in the video”), 44:31–32 (“[t]he user may drag the scrubber control to a desired position to quickly scan the video”). The plain and ordinary meaning of the claim term “scrubber bar requires that the bar allow a user to scrub or navigate through the video using the bar itself.”

We determine that for the purposes of this Decision, it is unnecessary to construe expressly any other claim terms. *See Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999) (Only terms in controversy must be construed “and only to the extent necessary to resolve the controversy”); *see also Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (citing *Vivid Techs* in the context of an *inter partes* review).

D. Alleged Anticipation by Fink

Petitioner contends that claims 1–4, 11, 12, 15–18, 20, 23, 25, 26, and 30 are anticipated by Fink. Pet. 30–70. Patent Owner disputes Petitioner’s contentions. Prelim. Resp. 5–28.

1. Summary of Fink

Fink describes a system and method for adding and displaying interactive annotations for online hosted videos, where a graphical annotation interface allows the creation of annotations and association of the annotations with a video. Ex. 1007 ¶ 4. Figure 1 of Fink is reproduced below.

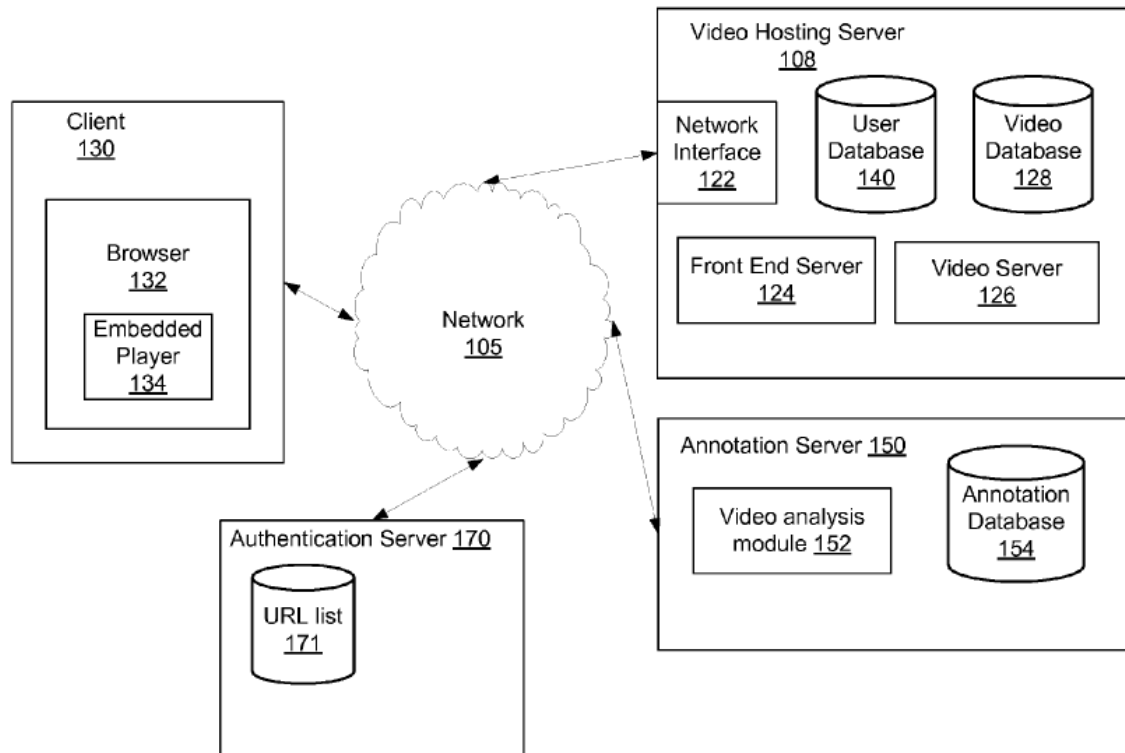


FIG. 1

Figure 1 above illustrates a block diagram of a system architecture. *Id.* As illustrated in Figure 1, a video hosting server 108 includes a front end server 124, a video server 126, a network interface 122, a video database 128, and a user database 140. *Id.* ¶ 13. A client 130 executes a browser 132, and connects to the front end server 124 via a network 105. *Id.* ¶ 14. Video server 126 receives uploaded media content from content providers and allows content to be viewed by client 130. *Id.* ¶ 16. An annotation server 150 provides the ability to view and add annotations to videos in the video database 128. *Id.* ¶ 22.

Figure 3 of Fink is reproduced below.

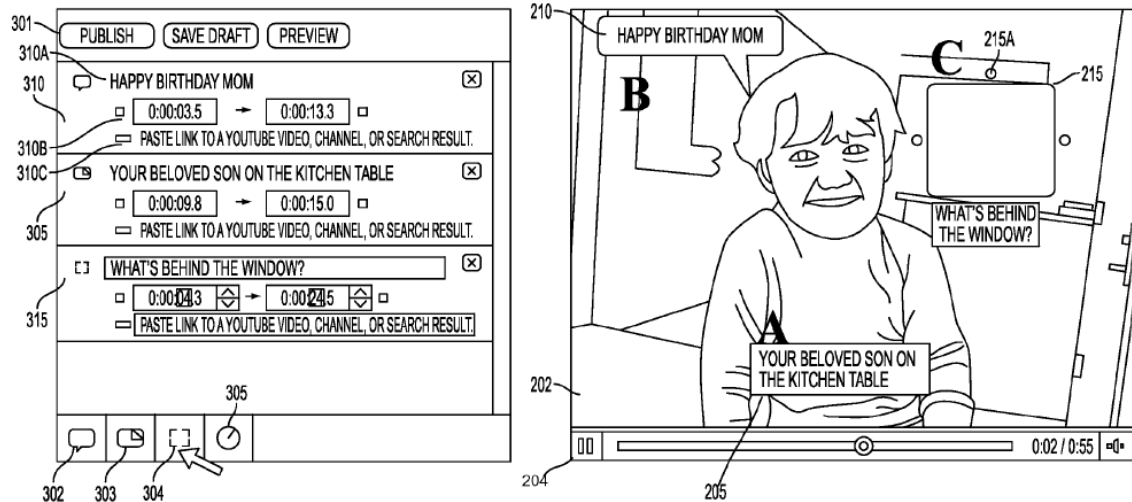


FIG. 3

Figure 3 depicts a user interface for manually creating annotations. *Id.* ¶ 30. A main video area 202 displayed on the client 130 plays a video stored in the video database 128 and served to the client 130 by the video server 126. *Id.* ¶ 26. “Playback can be controlled via, for example, a video controls area 204.” *Id.* Annotations 205 and 210 are text boxes and thought bubbles, which displays static text. *Id.* Annotation 215 is a spotlight that displays text (e.g., “What’s behind the window?”) in response to a user hovering the mouse within its boundaries. *Id.* Annotation icons 302–305 correspond to four annotation types (speech bubbles, text boxes, spotlights, and pauses, respectively). *Id.* ¶ 30.

Figure 5 of Fink is reproduced below.

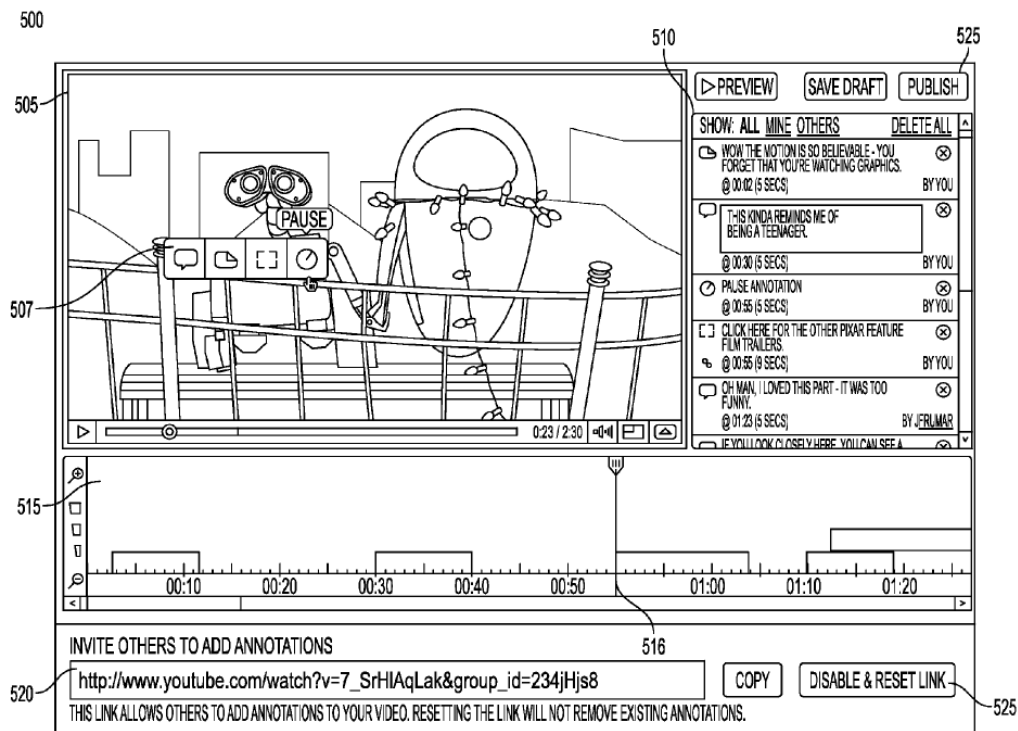


FIG. 5

Figure 5 depicts an annotation interface that allows for the addition of annotations and provides information on existing annotations. *Id.* ¶ 41.

Fink states:

A video area 505 displays the video, and annotation editing controls 507 allow the addition of annotations to the video in a manner similar to that of controls 302-305 in FIG. 3. An annotation list 510 displays a list of all the annotations currently associated with a video, including the type, the associated textual caption, the time of the video to which the annotation applies, the user who submitted the annotation, and the like. A visual timeline 515 graphically displays the time locations of the various annotations associated with the video. For example, a marker 516 indicates the location of a newly-added Pause annotation, and dragging the marker 516 changes the duration and/or time location of the pause.

Id.

2. *Independent Claim 1*

Petitioner contends that Fink describes all the elements of independent claim 1. Pet. 30–51. Patent Owner disagrees and, in particular, disputes that Fink describes elements 1.4 and 1.10 of claim 1. Prelim. Resp. 5–20.

[1.4] provide to a first user terminal of [sic]⁸ a first user interface that enables the first user to upload a first video or provide a link to the first video

To meet the claimed first user interface, Petitioner points to Fink’s description of a user using browser 132 to upload a video. Pet. 35–36; *see also* Ex. 1102 ¶¶ 63–64 (corresponding testimony of Dr. Porter). Petitioner states:

Fink describes the system providing a user interface to the first user terminal (*e.g.*, client device 130), as the client device 130 “executes a browser 132 and connects to the front end server 124 [of the video hosting server] via a network 105.” *Id.*, ¶¶[0014], [0013] (front end server 124 is component of video hosting server 108); Fig. 1. This browser interface enables the user to upload a first video to the video hosting server. *Id.*, ¶[0018] (“Users of the clients 130 and browser 132 can “upload content to the video hosting server 108 via network 105. The uploaded content can include, for example, video, audio or a combination of video and audio.”).

Pet. 36.

Patent Owner argues that Fink’s browser 132 cannot meet the claimed first user interface because Fink’s browser 132 was not provided by Fink’s

⁸ Patent Owner explains: “The word ‘of’ after ‘terminal’ is a remnant of a certificate of correction that removed a repeated term, ‘a first user’ but did not properly remove the leftover term ‘of’ from the claim.” Prelim. Resp. 6, n.2.

video hosting server, front end server 124, and/or video server 126 (i.e., the claimed processing device of element 1.2). Prelim. Resp. 5–8.

We agree with Patent Owner. Claim 1’s element 1.4 is a function of the programmatic code recited by element 1.3. Element 1.3 recites “non-transitory memory storing programmatic code that when executed by the at least one processing device, cause the video system to:” Ex. 1001, 57:9–11. Thus, claim 1 requires that the first user interface is provided by the processing device.

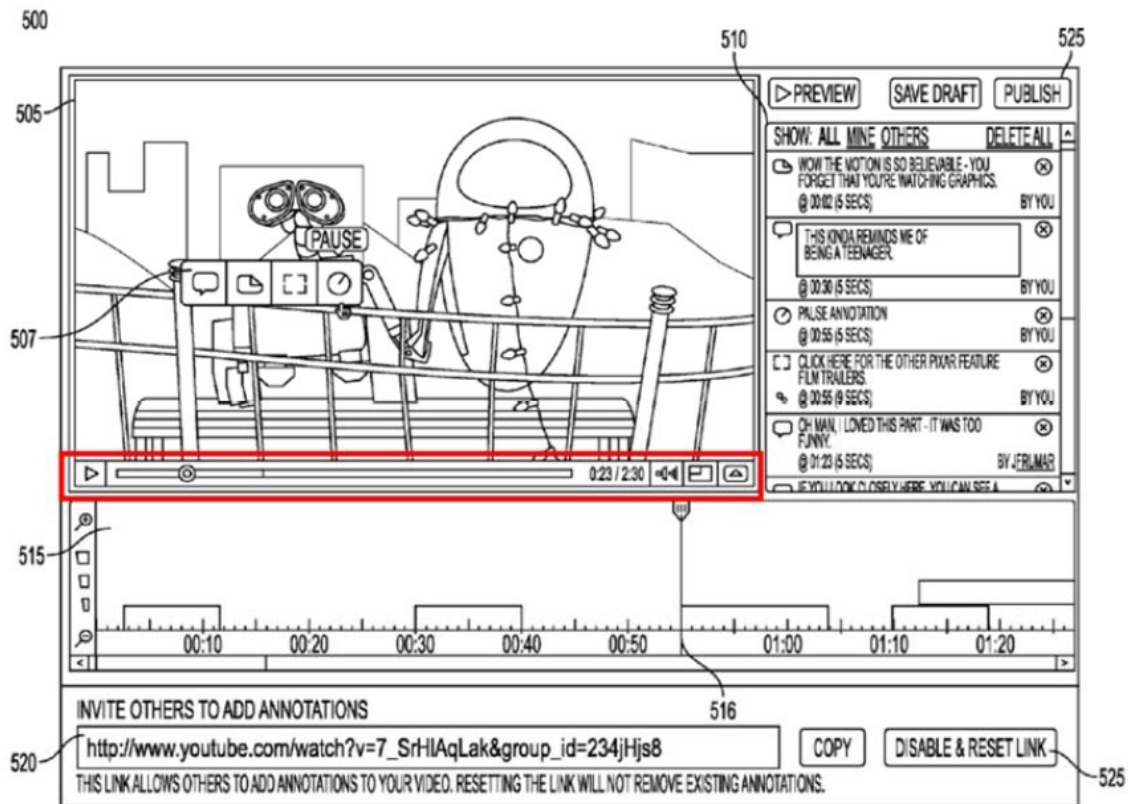
Petitioner equates the claimed processing device to Fink’s video hosting server 108, which includes front end server 124 and video server 126, and equates Fink’s browser 132 to the claimed first user interface. Pet. 33–36. Fink, however, does not describe video hosting server 108 providing browser 132 to a first user terminal. *See e.g.* Ex. 1007 ¶¶ 13–14, 18. To the contrary, Fink’s description of using browser 132 to connect client device 130 to front end server 124 by network 105 suggests that browser is a known web browsing software pre-loaded onto a standard personal computer device. *See id.* ¶ 14 (describing client 130 as known devices and using browser 132 to connect to front end server 124 via a network 105, such as the Internet).

Petitioner, thus, fails to show that Fink describes element 1.4 of claim 1.

[1.10] enable the first user to define, using the scrubber bar and a first control, when the first image is to be displayed as an overlay when the first video is played back

To meet the claimed scrubber bar, Petitioner points to an alleged scrubber bar depicted in Fink’s Figures 5 and 3. Pet. 5–6; *see also* Ex. 1102

¶¶ 71–72 (corresponding testimony of Dr. Porter). Fink’s Figure 5, with annotations added by Petitioner, is reproduced below.



Id., Fig. 5 (annotated); Ex. 1102, ¶¶ 71-72.

Pet. 43. Annotated Figure 5 depicts the alleged scrubber bar highlighted in solid red line. Pet. 42. Petitioner states:

Fink describes the system enabling the user to define when the first image is to be displayed, as it provides the user with a visual timeline 515, which “graphically displays the time locations of the various annotations associated with the video.” Ex. 1007, ¶¶ [0041], [0030] (“Annotation icons 302-305 correspond to four annotation types”); Fig. 5. The visual timeline includes a scrubber bar (annotated above in Figure 5) and a control (e.g., marker 516, which “indicates the location” of an annotation). *Id.*, ¶ [0041]; Fig. 5. Fink states that “dragging the marker 516 changes the duration and/or time location” of an annotation,” thus enabling the user to define when the annotation, including its image, is displayed as an overlay during

video play back. *Id.*, ¶¶[0041], [0022] (annotations modify a video by “providing interactive overlays), [0047] (“the user uses the interface to specify the properties of the annotations”); Ex. 1102, ¶73.

Pet. 43–44.

Patent Owner responds, “even if the time bar identified by the Petition with respect to FIG. 5 were a scrubber bar, which it is not, Fink does not disclose enabling a first user to define when the first image is displayed ‘using the scrubber bar and a first control,’ as required by claim element [1.10].” Prelim. Resp. 15.

We agree with Patent Owner. In the Petition, for element 1.9, Petitioner highlights the video controls area 204 and equates it to the claimed scrubber bar. *See* Pet. 42–43; Ex. 1007 ¶ 26 (“Playback can be controlled via, for example, a video controls area 204”); Figs. 2, 3, 5. Petitioner, however, does not assert and Fink does not describe using the bar in the video controls area 204 (i.e., the alleged scrubber bar) to define when the first image is to be displayed as an overlay when the first video is played back, as required by element 1.10.

For element 1.10, Petitioner also points to the bar in the video control area and to visual timeline 515 as including a scrubber bar. Pet. 43. Petitioner, however, does not assert and Fink does not describe visual timeline 515 allowing a user to scrub or navigate through the video using the bar itself, as required by the plain and ordinary meaning of a scrubber bar. *See* Ex. 1007 ¶ 41; Pet. 43–44. Further, although Petitioner points to Fink’s description of using marker 516 in visual timeline 515 to change the duration and time location of the display of an annotation, Petitioner provides no explanation as to how the video control area 204 is used in

conjunction with marker 516. Pet. 43–44 (citing Ex. 1007 ¶ 41, Ex. 1102 ¶ 73).

Petitioner fails to show that Fink describes element 1.10 of claim 1.

Petitioner, thus, fails to show a reasonable likelihood that claim 1 is anticipated by Fink.

3. Independent Claims 20 and 26

Independent claims 20 and 26 recite similar elements to claim 1's elements 1.4 and 1.10. *See* Ex. 1001, 59:38–40, 59:56–61, 61:6–8, 61:21–25. Both parties refer us to the same arguments provided for claim 1's elements 1.4 and 1.10. Pet. 60–62, 66–67; Prelim. Resp. 22–23, 25–26.

Petitioner does not provide any further explanation or citations to evidence. *See* Pet. 60–62, 66–67. For the same reasons above, Petitioner fails to show that Fink discloses all the limitations of independent claims 20 and 26. Petitioner, thus, fails to show a reasonable likelihood that claims 20 and 26 are anticipated by Fink.

4. Dependent Claims 2–4, 11, 12, 15–18, 23, 25, and 30

Petitioner argues that Fink anticipates dependent claims 2–4, 11, 12, 15–18, 23, 25, and 30. Pet. 50–60, 64–65, 69–70. Patent Owner responds that Petitioner fails to show the limitations of these dependent claims. Prelim. Resp. 20–21, 25, 28. Petitioner's arguments for these claims do not remedy the deficiencies discussed above for the challenged independent claims. Petitioner fails to show that Fink describes all the limitations of these challenged dependent claims. Petitioner, thus, fails to show a reasonable likelihood that claims 2–4, 11, 12, 15–18, 23, 25, and 30 are anticipated by Fink.

E. Alleged Unpatentability over Fink and Geer

Petitioner contends that claims 1–4, 11, 12, 15–18, 20, 23, 25, 26, and 30 are unpatentable over Fink and Geer. Pet. 70–73. Petitioner refers to its anticipation ground to show that Fink discloses most of the elements of these challenged claims and only relies upon Geer “[t]o the extent that Fink does not explicitly describe that the annotation includes an image.” *Id.* at 70. As it did for the anticipation ground, Patent Owner responds that Geer does not remedy the deficiencies of Fink with respect to claim elements 1.4 and 1.10, and “the Petition does not so assert.” Prelim. Resp. 29, 33–34.

Petitioner’s arguments for these claims do not remedy the deficiencies discussed above for the challenged independent claims. Petitioner fails to show that Fink and Geer teaches all the limitations of these challenged claims. Petitioner, thus, fails to show a reasonable likelihood that 1–4, 11, 12, 15–18, 20, 23, 25, 26, and 30 are unpatentable over Fink and Geer.

F. Remaining Grounds

Petitioner challenges claim 5 as unpatentable over the combination of Fink (and Geer) and Lerman. Pet. 74–75. Petitioner challenges claim 7 as unpatentable over Fink (and Geer) and Miller. *Id.* at 75–77. Petitioner challenges claim 19 as unpatentable over Fink (and Geer) and Sterner. *Id.* at 77–79. Petitioner further challenges claim 24 as unpatentable over Fink (and Geer) and Kilar. *Id.* at 79–81. Petitioner additionally challenges claim 27 as unpatentable over Fink (and Geer), Lerman, and Sterner. *Id.* at 82–85.

Patent Owner responds that the addition of Lerman, Miller, Sterner and Kilar do not remedy the deficiencies of Fink with respect to the

independent claims and the “Petition does not so assert.” Prelim. Resp. 43–45.

For the reasons discussed above with respect to the challenged independent claims, Petitioner fails to show a reasonable likelihood that these challenged dependent claims are unpatentable. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (“[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious.”). Petitioner, thus, fails to show a reasonable likelihood that claims 5, 6, 19, 24, and 27 are unpatentable over Fink (and Geer) and these additional references.

III. CONCLUSION

Petitioner does not show that there is a reasonable likelihood that it would prevail with respect to at least one of the challenged claims.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is denied, and no *inter partes* review is instituted.

IPR2021-00515
Patent 10,205,987 B2

FOR PETITIONER:

Frank M. Gasparo
Jonathan M. Sharret
Stephen K. Yam
VENABLE LLP
fmgasparo@venable.com
jsharret@venable.com
syam@venable.com

FOR PATENT OWNER:

Todd E. Landis
John Wittenzellner
Adam B. Livingston
WILLIAMS SIMONS & LANDIS PLLC
tlandis@wsltrial.com
johnw@wsltrial.com
alivingston@wsltrial.com