

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

AVAGO TECHNOLOGIES INTERNATIONAL SALES PTE. LIMITED,
Patent Owner.

IPR2021-01343
Patent 8,646,014 B2

Before KRISTEN L. DROESCH, RICHARD H MARSCHALL, and
RUSSELL E. CASS, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

JUDGMENT

Final Written Decision on Remand
Determining All Challenged Claims Unpatentable
35 U.S.C. § 144, 318(a)

I. INTRODUCTION

This decision is a final written decision on remand after a decision by the U.S. Court of Appeals for the Federal Circuit (“the Federal Circuit”) in *Avago Techs. Int’l Sales Pte. Ltd. v. Netflix, Inc.*, 2025 WL 1703486 (June 18, 2025) (Paper 36, “Federal Circuit Decision” or “Fed. Cir. Dec.”)¹ regarding the Board’s original Final Written Decision (Paper 31, “Final Written Decision” or “Final Dec.”).

We have jurisdiction under 35 U.S.C. § 6, and we issue this Final Written Decision on Remand under 35 U.S.C. §§ 144, 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, after considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we conclude that Petitioner has demonstrated by a preponderance of the evidence that claims 6, 8, 11, and 17 are unpatentable as obvious.

A. Procedural History

Netflix, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1, 3–12, and 14–20 of U.S. Patent No. 8,646,014 B2 (Ex. 1001, “the ’014 patent”). Petitioner supports its Petition with a Declaration of Anthony Wechselberger. Ex. 1003. Avago Technologies International Sales Pte. Limited (“Patent Owner”) filed a Preliminary Response. Paper 7. The Board issued a Decision Granting Institution. Paper 11.

After institution, Patent Owner filed a Response (Paper 18, “PO Resp.”), Petitioner filed a Reply (Paper 20), and Patent Owner filed a Sur-reply (Paper 24). Patent Owner supports its Response with a

¹ The Federal Circuit issued its mandate on July 25, 2025.

Declaration of Karthikeyan Sundaresan. Ex. 2014. Petitioner supports its Reply with a Reply Declaration of Anthony Wechselberger. Ex. 1026.

Mr. Wechselberger was cross-examined during trial, and a transcript of the deposition (Ex. 2015) is included in the record. Both parties presented oral arguments at a virtual hearing, and a copy of the hearing transcript is in the record. Paper 30.

The Board entered a Final Written Decision in this proceeding concluding that Petitioner established by a preponderance of the evidence that claims 1, 3–5, 7, 9, 10, 12, 14–16, and 18–20 of the '014 patent are unpatentable, but had not established by a preponderance of the evidence that claims 6, 8, 11, and 17 are unpatentable.

Patent Owner filed an appeal of the Final Written Decision to the Federal Circuit, and Petitioner filed a cross-appeal. *See* Papers 33, 34.

On June 18, 2025, the Federal Circuit entered a decision (1) affirming the Board's determination that claims 1, 3–5, 7, 9, 10, 12, 14–16, and 18–20 are unpatentable; (2) vacating the Board's determination that claims 6, 8, 11, and 17 are not unpatentable; and (3) remanding to the Board to address Netflix's motivation-to-combine arguments for the combination of Cooper and Baldwin, and determine whether Cooper teaches the additional limitations found in dependent claims 6, 8, 11, and 17. *See* Fed. Cir. Dec. 8–10.

B. Related Matters

The parties state that the '014 patent is the subject of *Netflix, Inc. v. CA, Inc.*, No. 3:21-cv-03649 (N.D. Cal.) and *CA, Inc. v. Netflix, Inc.*, No. 2:21-cv-00080 (E.D. Tex.).² Pet. 72; Paper 5, 1.

C. The '014 Patent (Ex. 1001)

The '014 patent is titled “Multistream Video Communication with Staggered Access Points,” and discloses a system and method that provide reduced latency in video signal processing systems. Ex. 1001, codes (54), (57). According to the '014 patent, latency is the time between when the user requests a particular video and when the system decodes the requested video and presents it to the user. *See id.* at 1:35–54. The '014 patent discloses that video streams have access points at which decoding can begin, such as an intra-coded frame (*see id.* at 4:17–32), also known as an “I-frame” (*see* Pet. 5; Ex. 1003 ¶ 6; Ex. 1005, 1:43–59).

One way to minimize latency, according to the '014 patent, is by providing the same video information in multiple video streams, with each stream having temporally offset access points. *See* Ex. 1001, 7:20–44. The '014 patent discloses that a receiver can identify the access points in each of the multiple video streams and determine which of the video streams will communicate an access point next, thus allowing the receiver to determine which video stream will provide the lowest latency. *See id.* at 7:20–51.

² The Court of Appeals for the Federal Circuit granted Petitioner’s petition for writ of mandamus and directed the court of the Eastern District of Texas to transfer *CA, Inc., v. Netflix, Inc.*, 2:21-cv-00080 to the Northern District of California. *See In re Netflix, Inc.*, No. 2022-110, 2022 WL 167470 (Fed. Cir. Jan. 19, 2022). Neither party filed an updated mandatory notice identifying the new case number for the transferred proceeding.

D. Illustrative Claim

On remand, challenged claims 6, 8, 11, and 17 are at issue. Claims 6, 8, and 11 depend ultimately from claim 1, and claim 17 depends from independent claim 12. Claim 1, reproduced below with labels added to reflect those used in the parties' briefing, is illustrative.

[1a] A method in a video receiving system for receiving video information, the method comprising:

[1b] receiving, by a receiver, a request by a user for a unit of video information;

[1c] receiving, by the receiver, a plurality of video information streams, each of which represents the requested unit of video information;

[1d] identifying, by the receiver, which of the plurality of video information streams, when processed, is expected to result in a lower latency in presenting the unit of video information; and

[1e] processing, by the receiver, the identified video information stream to present the unit of video information.

E. Patentability Challenge Following Remand

The Federal Circuit remanded to the Board to consider Petitioner's challenge to the patentability of claims 6, 8, 11, and 17 under pre-AIA 35 U.S.C § 103 over Cooper³ and Baldwin.⁴ See Pet. 10.

II. ANALYSIS

A. Level of Ordinary Skill in the Art

As previously set forth in the Final Written Decision, we determine a person of ordinary skill would have had a bachelor's degree in electrical

³ U.S. Patent No. 7,810,124 B2, issued Oct. 5, 2010 (Ex. 1004).

⁴ U.S. Patent No. 7,603,689 B2, issued Oct. 13, 2009 (Ex. 1005).

engineering, computer engineering, computer science, or a similar field and two years of experience in digital video signal processing or digital video streaming, which is consistent with the parties' arguments, the '014 patent, and the prior art of record. *See* Final Dec. 5.

B. Claim Construction

As previously set forth in the Final Written Decision, we need not expressly construe any claim term or phrase. *See* Final Dec. 6. We construe the claims by giving the words of the claims their ordinary and customary meaning which is the meaning the terms would have to a person of ordinary skill at the time of the invention, in the context of the entire patent including the specification. *See* 37 C.F.R. § 42.100(b) (2020); *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005) (en banc).

C. Summary of Prior Art

1. Cooper (Ex. 1004)

Cooper is titled “Robust Mode Staggercasting Fast Channel Change,” and discloses “staggercasting” as transmitting a composite signal including two component content representative signals, one of which is delayed with respect to the other. Ex. 1004, 1:66–2:2, code (54). In one example, Cooper states that “the same content representative signal may be staggercasted as a packet stream carrying a high-quality video signal and as one or more packet streams carrying reduced video quality video signals.” *Id.* at 22:29–32; *see id.* at 6:5–49, 19:41–45. Cooper states that its method of staggercasting decreases the time between when a user requests a new content representative signal and when it begins to be decoded and displayed to the user. *See id.* at 2:44–51.

2. Baldwin (Ex. 1005)

Baldwin is titled “Fast Start-Up for Digital Video Streams,” and discloses technology for reducing the start-up delay of digital video streams. Ex. 1005, codes (54), (57). As part of its fast start-up system, Baldwin describes streaming the same video content on a main video stream and on multiple alternative transmission streams called “lead-in streams” having different I-frames or “random access points” (“RAPs”). *See id.* at 6:28–31, Figs. 3, 4. “By sending multiple different streams, tuning time is improved because the receiver may select one of the lead-in streams to play. The one selected will typically be the one which will be ready to be presented the quickest after the time at which the user tunes.” *Id.* at 9:24–28. Baldwin further discloses that “when the exemplary fast start-up system wishes to tune to a channel . . . , it queries the multicast server . . . in order to determine which lead-in alternative stream is the first lead-in that has not started yet, and the receiver joins . . . that alternative multicast transmission.” *Id.* at 9:37–42. Baldwin discloses that the fast start-up system then requests that a router switch the receiver back to the main stream multicast transmission just before the next RAP of the main stream. *See id.* at 9:43–46.

D. Challenge to Claims 6, 8, 11, and 17 Based on Cooper and Baldwin

The Petition includes a limitation-by-limitation comparison of the teachings Cooper and Baldwin to independent claims 1, and 12, and claims 6, 8, 11, 12, and 17 dependent therefrom. *See* Pet. 24–45, 54–57, 62–63, 69–70. In the Final Written Decision, the Board determined that Petitioner had shown that Baldwin teaches all of the limitations of claims 1 and 12 and established by a preponderance of the evidence that independent claims 1

and 12 are unpatentable as obvious in view of Baldwin's teachings alone. *See* Final Dec. 8, 10–21. The Federal Circuit affirmed the Board's determination that claim 1 and independent claim 12 are unpatentable under pre-AIA 35 U.S.C. § 103 based on the teachings of Baldwin alone. *See* Fed. Cir. Dec. 5–7. Specifically, the Federal Circuit found that substantial evidence supported the Board's finding that Baldwin teaches limitation [1d]. *See id.*

In the Final Written Decision, the Board further found that Cooper teaches all of the limitations of claims 1 and 12, except for limitation 1[d] of claim 1, and the corresponding limitation of independent claim 12. *See* Final Dec. 10–21. In the Petition, Petitioner also contends that “[t]o the extent that . . . Cooper[’s teachings] relating to a receiver that identifies which of the multiplexed packet of streams is not time-delayed does not render limitation [1d] obvious, then a POSITA would have found it obvious for Cooper and Baldwin to teach this limitation based on Baldwin’s teachings.” Pet. 37; *see id.* at 24–43. Petitioner asserts that a person of ordinary skill would have been motivated to combine Cooper and Baldwin for a number of reasons. *See* Pet. 18–23. The Board was not persuaded that a person of ordinary skill in the art would have been motivated to combine the teachings of Cooper and Baldwin. *See* Final Dec. 8–10, 20. As a result, the Board determined that Petitioner did not establish that claims 1 and 12, and dependent claims 6, 8, 11, and 17 are unpatentable based on the combined teachings of Cooper and Baldwin. *See id.* at 20–21, 25, 27–30.

The Federal Circuit vacated the Board's determination as to claims 6, 8, 11, and 17 and remanded to the Board to address Petitioner's motivation-to-combine arguments for Cooper and Baldwin in view of the Board's finding that Cooper does not teach limitation 1[d], and to address whether

Cooper teaches the additional limitations of claims 6, 8, 11, and 17. *See* Fed. Cir. Dec. 10. The Federal Circuit faulted the Board's conclusion as failing to provide substantive analysis of Petitioner's motivation to combine arguments. *See id.* at 8. In particular, the court explained that Petitioner provided a detailed explanation of why a person of ordinary skill in the art would have been motivated to combine Cooper's receiver teachings with Baldwin's teachings of providing alternative streams with staggered access points and selecting the stream with the next available access point. *See id.* at 8–9. The court highlighted Petitioner's following arguments: (1) a person of ordinary skill in the art would have combined the prior art according to known methods to yield predictable results; (2) combining the prior art would have been a simple substitution of one known element for another to obtain predictable results; and (3) the combination represents a choice from a finite number of identified predictable solutions with a reasonable expectation of success. *See id.* at 9.

Accordingly, the issues before us are whether a person of ordinary skill in the art would have been motivated to combine the teachings of Cooper and Baldwin and whether Cooper teaches the additional limitations of dependent claims 6, 8, 11, and 17. *See* Fed. Cir. Dec. 8–10. To provide the full context for the issues before us, we first address each of the limitations of independent claims 1 and 12, and Petitioner's reasons for combining the teachings of Cooper and Baldwin, followed by an analysis of the limitations of dependent claims 6, 8, 11, and 17.

1. Claim 1

a) [1a] “A method in a video receiving system for receiving video information, the method comprising: [1b] “receiving, by a receiver, a request by a user for a unit of video information;”

Petitioner contends that Cooper teaches the preamble and limitation [1b] based on Cooper’s receiver receiving video information and receiving a request from a user for a new content source. *See* Pet. 24–25, 28–29 (citing Ex. 1004, 2:55–3:3, 7:23–26, 25:52–26:3).

Patent Owner did not specifically address Petitioner’s showings for the preamble of claim 1 and limitation [1b] based on Cooper. *See* PO Resp. 36–49. Based on the evidence of record, the Board determined that Petitioner had shown that Cooper teaches the preamble of claim 1 and limitation [1b]. *See* Final Dec. 10–11.

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine that Petitioner shows that Cooper teaches the preamble of claim 1 and limitation [1b]. *See* Ex. 1004, 2:55–3:3, 5:5–62, 7:23–26, 25:52–26:3.

b) [1c] “receiving, by the receiver, a plurality of video information streams, each of which represents the requested unit of video information;”

Petitioner contends that Cooper teaches limitation [1c] based on Cooper’s teaching that the “receiver receiving a ‘composite’ signal that includes multiple streams.” Pet. 31. More specifically, Petitioner contends that Cooper teaches a receiver that receives a composite signal of a first and a second signal multiplexed together, where the first stream may be a “normal mode stream” (e.g., high-definition version) of video content, and the second stream may be a “robust mode stream” (e.g., standard-definition

version) of the same video content. Pet. 31–32 (citing Ex. 1004, 6:5–49, 16:55–17:2, 19:19–26, 19:41–55).

Patent Owner did not specifically address Petitioner’s showings for this limitation based on Cooper. *See* PO Resp. 36–49. Based on the evidence of record, the Board determined that Petitioner had shown that Cooper teaches this limitation. *See* Final Dec. 11–12.

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine that Petitioner shows that Cooper teaches limitation [1c]. *See* Ex. 1004, 6:5–49, 16:55–17:2, 19:19–26, 19:41–55.

c) [1d] “identifying, by the receiver, which of the plurality of video information streams, when processed, is expected to result in a lower latency in presenting the unit of video information; and”

As briefly highlighted above, the Board found that the preponderance of the evidence did not support Petitioner’s argument that Cooper teaches limitation [1d]. *See* Final Dec. 13–16. Petitioner also argued that “[t]o the extent that . . . Cooper[’s teachings] relating to a receiver that identifies which of the multiplexed packet of streams is not time-delayed does not render limitation [1d] obvious, then a POSITA would have found it obvious for Cooper and Baldwin to teach this limitation based on Baldwin’s teachings.” Pet. 37. Petitioner contends that Baldwin teaches limitation [1d] based on Baldwin’s teachings of a receiver selecting a stream that is expected to be readily decoded and presented sooner.” Pet. 34–35 (citing Ex. 1005, 1:55–59, 6:25–36, 7:30–8:2, 9:24–28, Fig. 3). According to Petitioner, “Baldwin teaches providing phase-staggered alternative streams and a receiver that identifies which stream has the next available access point and chooses that stream to listen to.” Pet. 37 (citing Ex. 1005,

6:31–36). Petitioner cites Baldwin’s statement that “individual client devices may determine for themselves which stream to be listening to at any given point.” *Id.* (quoting Ex. 1005, 6:31–36). Further, Petitioner cites Baldwin’s Figure 4 and related disclosures as teaching a plurality of streams and a receiver that determines which stream to select based on the next available RAPs or I-frames to reduce latency. *See* Pet. 38–40 (citing Ex. 1005, 6:25–36, 7:21–8:2, Figs. 3, 4). The Board determined that Petitioner had shown by a preponderance of the evidence that Baldwin teaches limitation [1d], in particular “find[ing] that Baldwin teaches (or at least suggests) that its receiver can concurrently receive a plurality of streams and select one of those streams to reduce latency of presentation.” Final Dec. 18 (citing Ex. 1005, 6:25–33,); *see id.* at 16–19. The Federal Circuit held that the substantial evidence supported the Board’s finding as to limitation [1d] based on Baldwin. *See* Fed. Cir. Dec. 5–7. We address below Petitioner’s combination of the teachings of Cooper and Baldwin.

d) Combination of the Teachings of Cooper and Baldwin

Petitioner argues that Cooper and Baldwin teach “complimentary techniques” and that a person of ordinary skill would have been motivated to combine “Cooper’s receiver teachings with Baldwin’s teachings of providing alternative streams with staggered access points and selecting the stream with the next available access point.” Pet. 19. According to Petitioner, “[w]hile Cooper teaches identifying which alternative stream is more readily available (e.g., which stream is not time-delayed), Baldwin teaches identifying which stream has the next available access point.” Pet. 20. Further, Petitioner proposes “[c]ombining Cooper’s receiver teachings with Baldwin’s teachings of providing alternative streams with

staggered access points and selecting the stream with the next available access point,” contending that it “involves combining prior art elements according to known methods to yield predictable results because both teach video receivers that receive alternative streams representing content selected by a viewer.” Pet. 19–20 (citing Ex. 1004, 17:23–45, 19:19–23, 19:41–45; Ex. 1005, 6:31–35, 9:24–28, 12:42–44; Ex. 1003 ¶ 54); *accord* Pet. Reply 27. Petitioner further asserts that the combination “produces a combined device with predictable results because Baldwin’s identification and selection techniques are readily applied to the video streams otherwise used by Cooper’s receiver because Cooper and Baldwin both teach using MPEG-encoded video.” Pet. 20 (citing Ex. 1003 ¶ 54); *accord* Pet. Reply 27. According to Petitioner, “[a] POSITA would have appreciated that applying Baldwin’s teachings to Cooper would allow for a more objective-effective identification of the next available stream because Cooper’s teachings suggest a fixed delay between alternative streams, whereas Baldwin’s teachings are more flexibly applied based on the location of access points in the MPEG encoded video stream.” Pet. 21 (citing Ex. 1003 ¶ 54). Petitioner further contends that “the combination is a ‘simple substitution of one known element’ (e.g., Baldwin’s teaching of identifying which stream has the next available access point) for another (e.g., Cooper’s teaching of identifying which stream is more readily available) to obtain predictable results (e.g., a video receiver that receives alternative video streams that implements a fast channel change by identifying the alternative stream with next available access point for decoding and presenting to the user).” Pet. 21. According to Petitioner, “[i]mplementing Baldwin’s teaching of identifying which stream has the next available access point [also] represents

a choice from a finite number of identified predictable solutions with a reasonable expectation of success.” Pet. 22.

In the Response, Patent Owner contends that “Petitioner cannot claim that a POSITA would have any reason to combine the references” because Petitioner argues that both references teach every limitation of claim 1. PO Resp. 69 (citing Ex. 2014 ¶ 89); *see id.* at 68–69. According to Patent Owner, “Petitioner fails whatsoever to explain why a POSITA would have any reason to combine Baldwin with Cooper when Petitioner argues that both references allegedly teach every limitation of Claim 1.” *Id.* at 69 (citing Pet. 18–24; Ex. 2014 ¶ 89; *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1373 (Fed. Cir. 2019); *LG Electronics, Inc. v. Cellular Comm. Equip. LLC*, IPR2016-00197, Paper 7 (PTAB Apr. 29, 2016)). Patent Owner further contends that because “neither Cooper nor Baldwin discloses or suggests limitation [1d],” [a] POSITA would understand, therefore, that even if combined, the references collectively would still fail to disclose or suggest that limitation.” *Id.* at 70.

We do not agree with Patent Owner’s arguments because they overlook Petitioner’s contingent argument—“[t]o the extent that . . . Cooper[’s teachings] relating to a receiver that identifies which of the multiplexed packet of streams is not time-delayed does not render limitation [1d] obvious, then a POSITA would have found it obvious for Cooper and Baldwin to teach this limitation based on Baldwin’s teachings.” Pet. 37; *see id.* at 37–42. Patent Owner does not directly address Petitioner’s specific reasons for making the combination. *See* PO Resp. 69–70.

Based on the entire record, including the Final Written Decision, and Federal Circuit Decision, and after having considered Petitioner’s citations to Cooper, Baldwin, and Mr. Wechselberger’s testimony (Ex. 1003), we are

persuaded Petitioner sets forth sufficient articulated reasoning with rational underpinning to support the conclusion that it would have been obvious to one of ordinary skill in the art to combine the teachings of Cooper and Baldwin by substituting Baldwin's teachings of providing alternative streams with staggered access points and selecting the stream with the next available access point in place of Cooper's teaching of identifying which alternative stream is readily available or not time-delayed to yield predictable results with the benefit of allowing a more objective-effective identification of the next available stream. *See* Pet. 18–23; Ex. 1003

¶¶ 54–58; Ex. 1004, 2:58–62, 4:15–38, 5:5–23, 5:39–62, 6:5–49, 7:8–22, 17:23–45, 18:17–31, 18:57–19:3, 19:19–23, 19:41–45, 23:56–64, 24:10–19; Ex. 1005, 1:25–41, 2:5–15, 6:31–35, 6:55–61, 7:40–47, 9:24–28, 10:18–24, 12:42–44; *KSR*, 550 U.S. at 418.

e) [1e] “processing, by the receiver, the identified video information stream to present the unit of video information.”

Petitioner contends that Cooper teaches limitation [1e] based on Cooper's “receiver decoding and displaying video data in a packet stream and Baldwin teaches a receiver decoding and displaying video data.” Pet. 42 (citing Ex. 1004, 17:33–45, 18:57–19:3). Petitioner contends a person of ordinary skill would have understood that Cooper teaches a receiver processing the identified video stream with its teachings regarding the receiver decoding and displaying video data. *Id.*

Patent Owner did not address Petitioner's showing for limitation [1e] based on Cooper. *See* PO Resp. 36–49. Based on the evidence of record, the Board determined that Petitioner had shown that Baldwin teaches this limitation. Final Dec. 20.

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine that Petitioner shows that Cooper teaches limitation [1e]. *See* Ex. 1004, 17:33–45, 18:57–19:3.

f) Conclusion Regarding Claim 1

Based on the entire record, including the Federal Circuit Decision, we determine Petitioner has established by a preponderance of the evidence that claim 1 is unpatentable as obvious based on the combined teachings of Cooper and Baldwin.

2. Independent Claim 12

Claim 12 is a system claim reciting limitations substantially the same as the method of claim 1. *Compare* Ex. 1001, 20:30–42, *with id.* at 21:19–34; *see* Ex. 1003 ¶ 106 (comparing claims 1 and 12). Petitioner contends that “Cooper and Baldwin render the limitations of claim 1 obvious and, therefore, render the parallel limitations of claim 1 and claim 12 obvious.” Pet. 43–44 (citing Ex. 1003 ¶¶ 107–113; Pet. 24–43). Petitioner additionally notes that the each of Cooper and Baldwin teach receivers that include the recited hardware module of a receiver device and processor executing instructions to perform the recited functions. *See* Pet. 43–46 (citing Ex. 1003 ¶ 110; Ex. 1004, 6:5–7:22; Ex. 1005, 3:62–67, 6:9–24, 11:9–12:15, 12:17–14:53).

Patent Owner does not separately address Petitioner’s showings for claim 12. *See* PO Resp. 70–71 (noting that Petitioner relies on its arguments for claim 1 and stating claim 12 is “valid at least for the same reasons as [c]laim 1”).

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we agree with

Petitioner that the same arguments and evidence advanced for claim 1 apply equally to Petitioner's challenge to claim 12, and determine for the same reasons that Petitioner has established by a preponderance of the evidence that independent claim 12 is unpatentable as obvious over the combined teachings of Cooper and Baldwin.

3. Dependent claims 6 and 17

Claim 6 depends directly from claim 1 and further recites “receiving a plurality of video information streams comprises receiving the plurality of video information streams simultaneously over a single multi-stream channel.” Ex. 1001, 20:59–62. Claim 17 depends from claim 12 and recites limitations nearly identical to dependent claim 6. *Compare id.* at 22:7–11, *with id.* at 20:59–62; *see* Ex. 1003 ¶ 140. Petitioner contends that Cooper teaches the limitations of claims 6 and 17 based on Cooper's disclosures of multiplexing a normal mode stream and a robust mode stream together into a composite signal. Pet. 55. According to Petitioner, a person of ordinary skill would have understood that transmitting a multiplexed composite signal would have been done through a single communication channel. Pet. 55–57 (citing Ex. 1004, 5:5–66; Ex. 1003 ¶¶ 139–143). Patent Owner does not separately address Petitioner's showing for claim 6. *See* PO Resp. 71 (arguing patentability over Cooper and Baldwin “by virtue of their dependence”).

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine Petitioner establishes by a preponderance of the evidence that claim 6 is unpatentable as obvious based on the combined teachings of Cooper and Baldwin.

4. Dependent Claim 8

Claim 8 depends ultimately from claim 1, via intervening dependent claim 7. Dependent claim 7 recites “receiving information of access point timing for at least one of the plurality of video information streams, and wherein identifying which of the plurality of video information streams is expected to result in the lower latency comprises analyzing the received information of access point timing to determine which of the plurality of video information streams is expected to communicate a next access point.” Ex. 1001, 20:63–21:3. Dependent claim 8 recites “the information of access point timing comprises information indicating expected time of access point arrival.” *Id.* at 21:4–6.

The Board found that Petitioner had shown by a preponderance of the evidence that Baldwin teaches the limitations of claim 7, based on Baldwin’s teachings of determining the alternative stream with the next available access point (RAP or I-frame). *See* Final Dec. 26 (citing Ex. Pet. 60–62; Ex. 1005, 6:31–33, 9:6–14, 9:37–46, 10:18–24; Ex. 1003 ¶¶ 148–149). The Federal Circuit affirmed the Board’s Decision as to dependent claim 7. *See* Fed. Cir. Dec. 5–7.

Petitioner contends Cooper teaches the limitation of claim 8 based on Cooper’s teachings of a delay introduced into a normal mode stream and a corresponding robust mode stream, such as Cooper’s example of a time delay between 0.5 seconds and several seconds. *See* Pet. 62–63 (citing Ex. 4:48–5:4, 9:6–14, 18:17–19:3; Ex. 1003 ¶¶ 150–153). According to Petitioner, “[a] POSITA would have understood that the time delay introduced into a normal mode packet stream teaches information indicating the expected time of access point arrival.” Pet. 63.

Patent Owner did not separately address Petitioner’s showing for claims 7 and 8. *See* PO Resp. 71 (arguing patentability over Cooper and Baldwin “by virtue of their dependence”).

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine Petitioner establishes by a preponderance of the evidence that claim 8 is unpatentable as obvious based on the combined teachings of Cooper and Baldwin.

5. Dependent Claim 11

Claim 11 depends directly from claim 1 and further recites “processing a second of the plurality of video information streams to present the unit of video information.” Ex. 1001, 21:17–19. Petitioner contends Cooper teaches the limitation of claim 11 based on Cooper’s teaching of concurrently processing a normal mode stream and a robust mode stream having the same video content and representing the same content. *See* Pet. 70 (citing Ex. 1004, 2:54–3:3, 16:27–37, 17:61–18:16, 19:19–27, 19:41–55, 22:28–42; Ex. 1003 ¶¶ 164–166; Pet. 28–34). According to Petitioner, “Cooper explains that processing the two streams concurrently provides for a smooth transition between presenting one of the streams used for a fast channel change and the other stream for normal presentation of the content.” *Id.* (citing Ex. 1004, 17:61–18:16). Patent Owner does not separately address Petitioner’s showing for claim 11. *See* PO Resp. 71 (arguing patentability over Cooper and Baldwin “by virtue of their dependence”).

After considering the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine

Petitioner establishes by a preponderance of the evidence that dependent claim 11 is unpatentable as obvious based on the combined teachings of Cooper and Baldwin.

III. CONCLUSION

For the reasons set forth above, based on the record previously developed during trial, the Final Written Decision, and the Federal Circuit Decision, we determine that Petitioner has proven by a preponderance of the evidence that claims 6, 8, 11, and 17 of the '014 patent are unpatentable.⁵

In summary:

Claims	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
6, 8, 11, 17	103	Cooper, Baldwin	6, 8, 11, 17	

⁵ Should Patent Owner pursue amendment of the challenged claims in a reissue or reexamination proceeding, we direct 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. *See* 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner files a reissue application or a request for reexamination, Patent Owner is reminded 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 6, 8, 11, and 17 of the '014 patent are unpatentable; and

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

IPR2021-01343
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FOR PETITIONER:

Harper S. Batts
Chris Ponder
Jeffrey Liang
Justin Wang
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
hbatts@sheppardmullin.com
cponder@sheppardmullin.com
jliang@sheppardmullin.com
juwang@sheppardmullin.com

FOR PATENT OWNER:

Daniel S. Young
QUARLES & BRADY LLP
dyoung@quarles.com

Chad King
KING IAM LLC
chad@king-iam.com