

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ROKU, INC.,
Petitioner,

v.

ALMONDNET, INC. and INTENT IQ, LLC,
Patent Owner.

IPR2022-00960
Patent 10,321,198 B2

Before KRISTEN L. DROESCH, MIRIAM L. QUINN, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

QUINN, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. § 42.108

I. INTRODUCTION

Roku, Inc. (“Petitioner”) filed a Petition (Paper 2, “Petition” or “Pet.”) requesting an *inter partes* review of claims 1, 3–5, 8–18, 20–26, and 28–33 (“the challenged claims”) of U.S. Patent No. 10,321,198 B2 (Ex. 1001, “the ’198 patent”) pursuant to 35 U.S.C. §§ 311–319. Intent IQ, LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Preliminary Response” or “Prelim. Resp.”).

We have authority, acting on the designation of the Director, to determine whether to institute an *inter partes* review under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). *Inter partes* review may not be instituted unless “the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a) (2018).

For the reasons set forth below, upon consideration of the parties’ contentions and the evidence of record, we conclude that Petitioner has not established a reasonable likelihood of prevailing in demonstrating the unpatentability of at least one challenged claim of the ’198 patent. Accordingly, we deny Petitioner’s request and do not institute an *inter partes* review.

A. *Real Parties in Interest*

Petitioner identifies itself as the real party in interest. Pet. 1.

Patent Owner identifies itself as the real party in interest. Paper 4, 1 (Patent Owner’s Mandatory Notices). Patent Owner also identifies AlmondNet, Inc. as a licensee of the ’198 patent. *Id.*

B. Related Matters

The parties indicate that the '198 patent has been asserted in the following cases: *Roku, Inc. v. AlmondNet, Inc.*, Case No. 1-21-cv-01035 (D. Del.) (declaratory judgment action); *AlmondNet, Inc. v. Roku, Inc.*, Case No. 6-21-cv-00731 (W.D. Tex.) (stayed pending resolution of 1-21-cv-01035 (D. Del.)). Pet. 2; Paper 4, 1.

Petitioner indicates that the '198 patent has also been asserted in *AlmondNet, Inc. v. Samsung Electronics Co., Ltd.*, Case No. 6-21-cv-00891 (W.D. Tex.). Pet. 2.

Patent Owner also identifies IPR2022-00959 as a related matter. Paper 4, 1.

C. The '198 Patent

The '198 patent “relates to online access and targeted delivery or presentation of advertisements.” Ex. 1001, 1:16–17. Specifically, the '198 patent describes targeting online advertisements “based on observed viewing of or interacting with a television advertisement by a television viewer.” *Id.* at 1:17–20. The '198 patent acknowledges that certain issues, such as the “use of PII [Personally Identifiable Information] or not, [and] dynamic device addresses,” “must be addressed for cross-media targeting.” *Id.* at 9:20–22.

Figure 1 of the '198 patent is reproduced below.

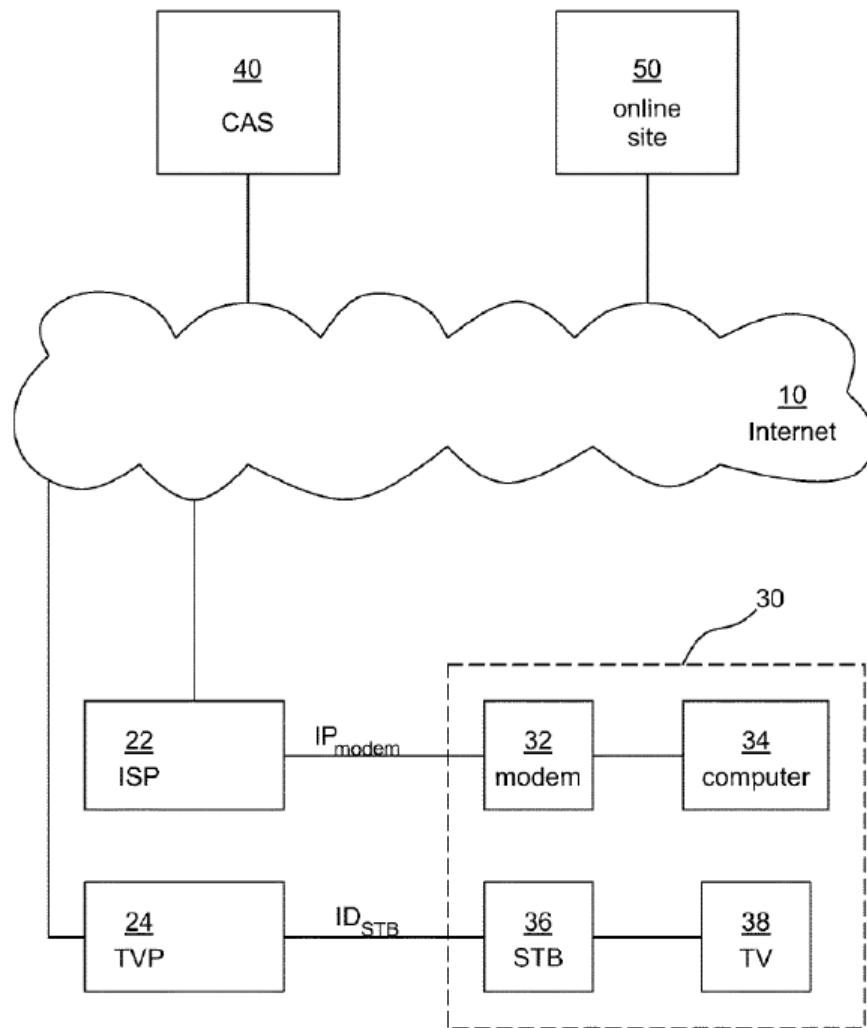


FIG. 1

Figure 1 depicts a system in which “user’s modem 32 (an online access device) is connected to an Internet service provider (ISP) 22 for providing online access via computer 34 (an online user interface device).” *Id.* at 12:26–29. “[D]ata or content directed for online transmission to the user is directed to the online access IP address (IP_{modem}) assigned to modem 32 at that time.” *Id.* at 12:53–56. In Figure 1 the “user’s STB [set-top box] 36 is connected to television provider (TVP) 24 for providing television service via television 38.” *Id.* at 12:29–31. “TVP 24 mediates any exchanges of

data or content between the set-top box 36 and any outside server or system (such as central ad server CAS 40, for example).” *Id.* at 13:2–4.

In operation, the system of the ’198 patent generates a user profile when the user engages in online activity using computer 34. *Id.* at 13:35–40. At least a portion of the profile can be delivered to CAS 40, which selects a television advertisement and directs it to STB 36 “via TVP 24 using an associated set-top box identifier ID_{STB}.” *Id.* at 13:54–61. STB 36 is instructed “to provide a notification when the targeted television advertisement is presented on the user’s television 38.” *Id.* at 14:38–41. “The notification can merely indicate that the television advertisement has been viewed, or can include more extensive information derived from the user’s behavior related to the television advertisement (before, during, or after its viewing).” *Id.* at 15:3–7. Subsequently, “CAS 40 can transmit one or more selected (i.e., targeted) online advertisements to the user’s computer 34 via modem 32 at its current online access IP address or can track and record the user’s online activities via modem 32 at that current online access IP address.” *Id.* at 15:12–17.

The ’198 patent describes that “[t]he association between the online access IP address for the earlier online activity and the STB identifier can be established for targeting the television advertisement in any suitable way.” *Id.* at 13:61–64. “For example, the association between the online behavior from IP_{modem} and subsequent delivery of the targeted ad to ID_{STB} can be established by: use of PII or non-PII as needed, desired, or permitted.” *Id.* at 13:66–14:2. And, regarding “delivery of online ads to modem 32 based on the user’s observed behavior related to a television advertisement delivered via STB 36,” the ’198 patent provides that “[a]ll that is required is an association between the STB identifier related to an earlier delivered

television ad and the online access IP address of subsequent online activity . . . (with, or perhaps preferably without, relying on PII).” *Id.* at 18:53–63. Accordingly, “the association of an STB identifier with an online access identifier” can enable both tracking online activity “to evaluate the effectiveness of the television advertising” and presenting targeted follow-up online advertising “to increase the effectiveness of combined online and television advertising over that of either advertising medium alone.” *Id.* at 16:18–31.

D. Illustrative Claims

Of the challenged claims, claims 1, 18, and 26 are independent. Each of challenged claims 3–5, 8–17, 20–25, and 28–33 depend, either directly or indirectly, from claims 1, 18, or 26.

Claim 1 is illustrative:

1. A computer-implemented method of dealing with online activity of a first user having a first set-top box and a first online user interface device, the method comprising:

(a) receiving at a computer system a notification, wherein the notification: (i) includes or references a first set-top box identifier, and (ii) results from and signifies a first television advertisement presented using the first set-top box that corresponds to the first set-top box identifier; and

(b) using the notification, automatically with the computer system causing a first action to be taken with respect to online activity through the first online user interface device subsequent to presentation of the first television advertisement, which first online user interface device corresponds, at a time of the first action, to a first online user interface device identifier;

(c) wherein the first online user interface device identifier and the first set top box identifier are associated without using personally identifiable information pertaining to a user of the set-top box that corresponds to the first set-top box identifier.

Ex. 1001, 25:16–36.

E. Asserted Prior Art and Grounds of Unpatentability

The asserted grounds in this proceeding involve the following prior art references:

- a) *Madhavan*: US 8,180,674 B2, issued May 15, 2012, filed as Exhibit 1008;
- b) *Whitehead*: US 2008/0281697 A1, published November 13, 2008, filed as Exhibit 1015;
- c) *Vallier*: US 9,495,682 B2, issued November 15, 2016, filed as Exhibit 1011;
- d) *Varghese*: US 7,908,645 B2, March 15, 2011, filed as Exhibit 1016;

Petitioner asserts the following grounds of unpatentability (Pet. 9–10):

Claims Challenged	35 U.S.C. §	References
1, 3–5, 8, 17, 18, 20, 21, 26, 28, 29	103	Madhavan, Whitehead
9, 10, 25, 33	103	Madhavan, Whitehead, Vallier
11–16, 22–24, 30–32	103	Madhavan, Whitehead, Varghese

Petitioner also relies on a Declaration of Dr. Samrat Bhattacharjee, filed as Exhibit 1003 (“Bhattacharjee Declaration”).

II. ANALYSIS

A. Level of Ordinary Skill in the Art

Petitioner contends that a person having ordinary skill in the art “would have a bachelor’s or the equivalent degree in electrical and/or computer engineering or a related field and 2-3 years of experience in computer and networking systems including systems for online content delivery such as targeted advertisements,” and that more experience might compensate for less formal education or vice versa. Pet. 8 (citing Ex. 1003

¶ 15). Patent Owner does not address the level of ordinary skill in the art. *See* Prelim. Resp. We adopt Petitioner’s definition of a person of ordinary skill in the art because it is consistent with the level of skill reflected by the ’069 Patent Specification and the asserted prior art.

B. Claim Construction

In *inter partes* review proceedings based on petitions filed on or after November 13, 2018, such as this one, we construe claims using the same claim construction standard that would be used in a civil action under 35 U.S.C. § 282(b), as articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and its progeny. *See* 37 C.F.R. § 42.100(b). In applying that standard, claim terms generally are given their ordinary and customary meaning as would have been understood by a person of ordinary skill in the art at the time of the invention and in the context of the entire patent disclosure. *Phillips*, 415 F.3d at 1312–13.

Petitioner asserts that “no claim term requires express construction,” and so the “Petition analyzes the claims consistent with ordinary and customary meaning as would be understood by POSITA in light of the specification.” Pet. 9. Patent Owner does not address claim construction. *See* Prelim. Resp.

At this juncture, we do not discern a dispute between the parties regarding any claim limitations, nor do we discern the need to expressly construe any claim limitations to resolve the controversy before us. *See, e.g., Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (“[W]e need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

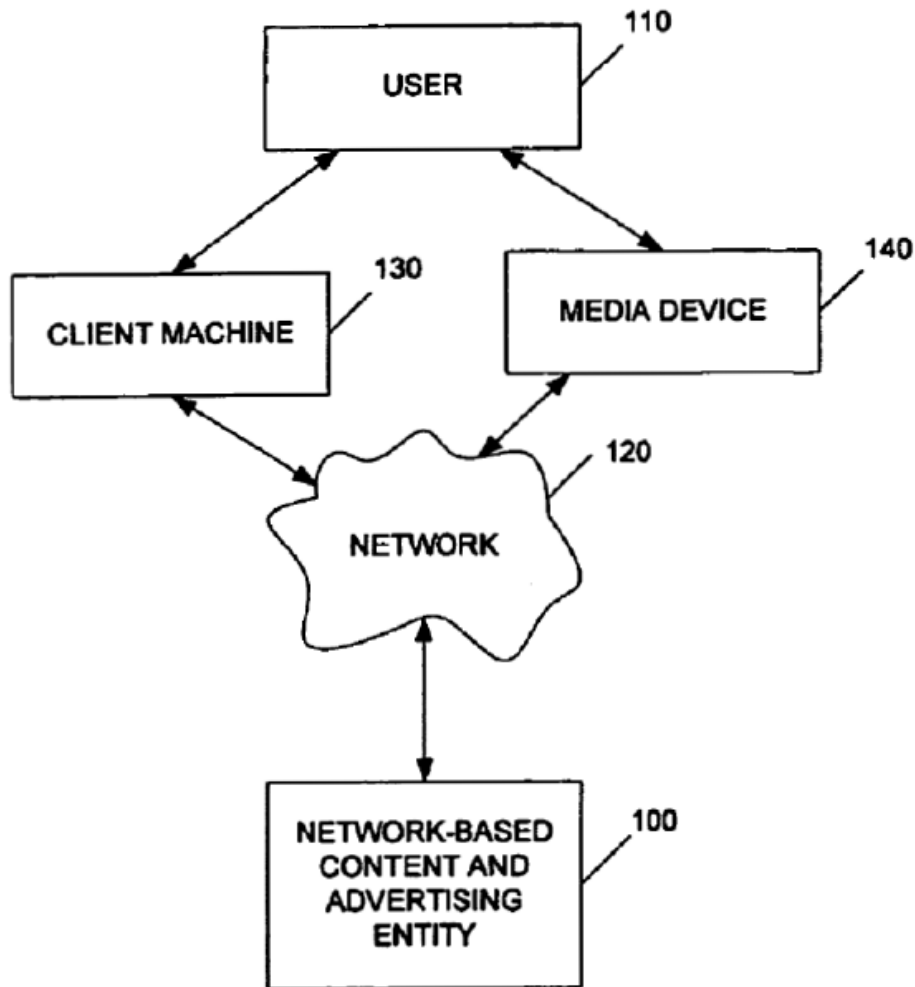
C. Obviousness over Madhavan and Whitehead

Petitioner asserts that claims 1, 3–5, 8, 17, 18, 20, 21, 26, 28, and 29 would have been obvious over Madhavan and Whitehead. Pet. 14–63.

1. Overview of Madhavan (Ex. 1008)

Madhavan relates to “targeting of advertisements based on mutual information sharing between devices over a network.” Ex. 1008, 1:36–38. In an embodiment, “a user connects to one or more media devices and further performs specific actions, such as, for example, watches a broadcast television program on the network-enabled television set or watches a television program.” *Id.* at 1:55–59. Thereafter, when the user is using a client machine, advertisements may be selected for display on the client machine. *Id.* at 1:64–67.

Figure 1, reproduced below, illustrates a network architecture that includes entity 100 for “enabling automatic matching of advertising information to events or actions and interests of users.” *Id.* at 4:26–31.



As shown in Figure 1, “entity 100 is coupled via a network 120 to one or more user entities 110, such as, for example, users and/or agents of such users.” 4:37–39. User entities 100 are coupled to network 120 through client machine 130 and at least one media device 140. *Id.* at 4:39–42. Examples of client device 130 include “a cellular phone, a PDA or other wireless device.” *Id.* at 5:8. Media devices 140 can include a “network-enabled television set” and a “digital video recording device.” *Id.* at 9:9–13.

2. Overview of Whitehead (Ex. 1015)

Whitehead relates to “collecting addressability information about users accessing a service provider’s IP-based network communication

services, collecting information sufficient to identify when the user is accessing the . . . services, collecting data from video services usage by the user and using the collected data to associate the user with certain marketing content.” Ex. 1015, code (57). A system for delivering IP-based services is shown in Whitehead’s Figure 1, reproduced below. *Id.* ¶ 29.

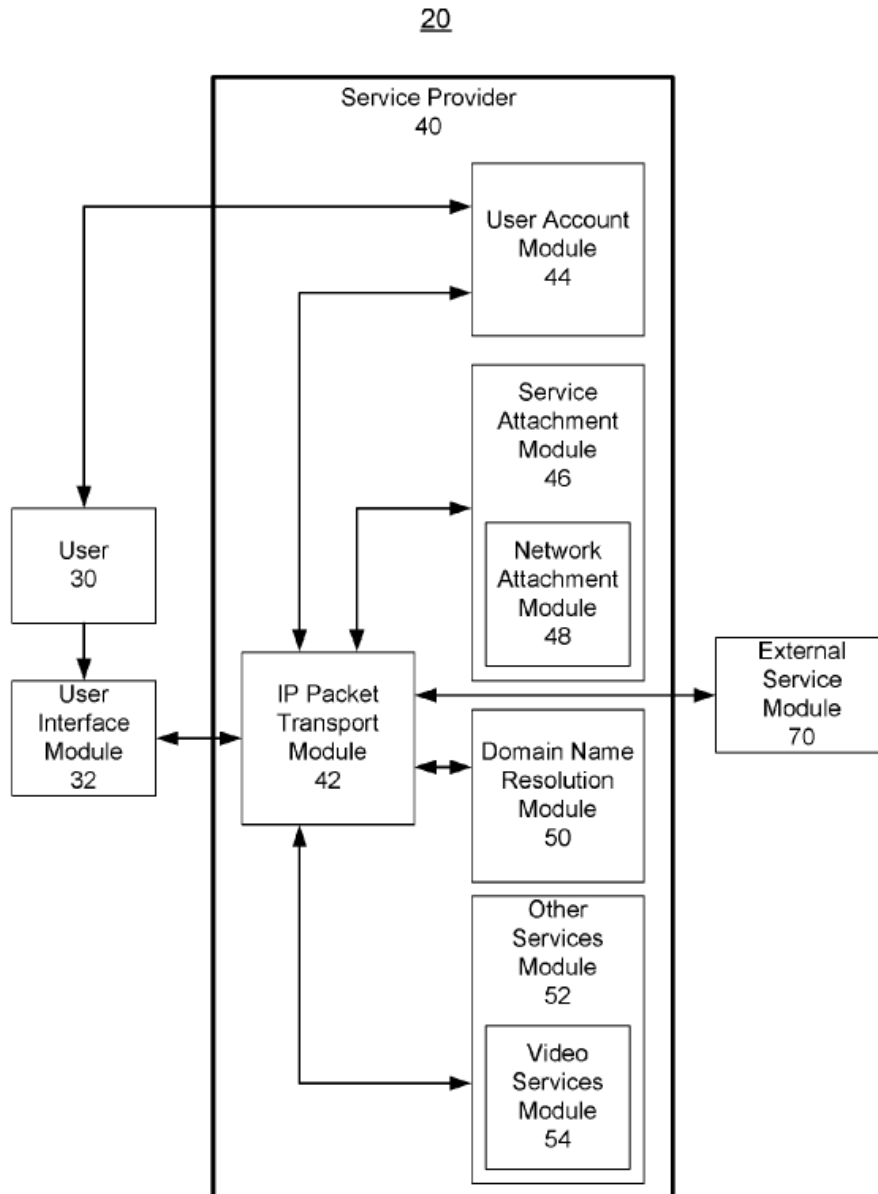


Figure 1

As shown in Figure 1, system 20 includes a user 30, which “can be an individual or group that uses IP-based services provided by and through the service provider 40.” *Id.* ¶ 30. User interface module 32 provides a way for user 30 to connect a device to service provider 40’s infrastructure and interact with IP-based services. *Id.* ¶ 31. For example, “user interface module 32 can comprise a private network that contains multiple IP-enabled devices, e.g., PCs, laptops, set-top boxes, etc. all accessed through a single IP connection managed by a home-router. *Id.* ¶ 80.

When using the IP-based services, “[t]he period in time during which a specific user 30 is associated with a specific IP address can be the user’s IP access session.” *Id.* ¶ 69. An IP address can be used to associate information collected during an IP access session with user 30 so that it can be “used later in that session to send marketing content addressed to the IP access session IP address over an IP-based communication channel or processed and associated with the user 30 for subsequent use.” *Id.* ¶ 78. In a particular embodiment for providing targeted marketing services, Whitehead’s system can collect “receptiveness information,” which is “information that pertains to an individual’s or a group’s potential receptiveness to marketing content, e.g., a propensity to purchase a product.” *Id.* ¶¶ 83, 85. “The continuity of the association between the user 30 and an IP address during an IP access session can allow any receptiveness information keyed to the IP address during the IP access session to be associated with the user 30.” *Id.* ¶ 109.

Whitehead’s Figure 5 shows a way of “associating IP address-keyed receptiveness information to users,” and is reproduced below. *Id.* ¶ 110.

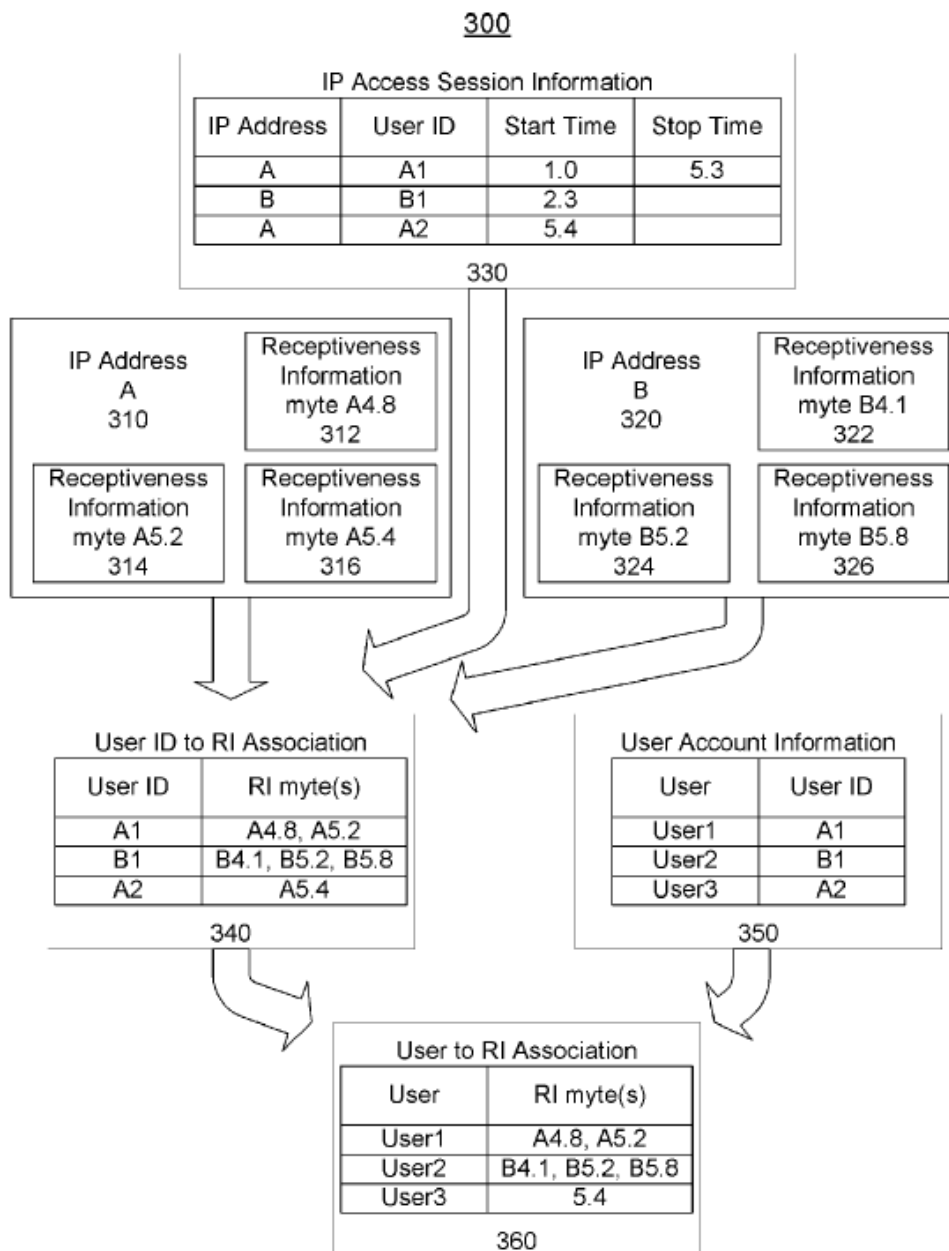


Figure 5

As shown in Figure 5, block 330 represents IP access session information indicating, for example, the allocation of “IP address A to a user (User1) with user ID A1 at time 1.0,” and the de-allocation of “IP address A from User1 at time 5.3.” *Id.* ¶ 112. Block 310 represents “mytes of receptiveness information generated using IP Address A over a given period of time,”

where “[a] myte can be defined as an individual unit of marketing information.” *Id.* ¶ 110. For instance, “Block 312 can represent an RI-myte generated at time 4.8 (RI-myte A4.8)” and “Block 314 can represent an RI-myte generated at time 5.2 (RI-myte A5.2).” *Id.* Whitehead explains that, “[by] combining the information available in Block 310 with the information available in Block 330, the service provider 40 can associate each RI-myte with the user ID using IP address A when the RI myte was generated,” as shown in block 340. *Id.* ¶ 113. Additionally, block 350 represents “user account information maintained by the service provider 40.” *Id.* ¶ 114. “By combining the information available in Block 350 with the information available in Block 340, the service provider 40 can associate each RI-myte with a specific user and other information associated with that user,” as shown in block 360. *Id.*

3. Reasonable Likelihood Determination

After a thorough review of the current record, we determine that Petitioner has failed to show sufficiently that the combination of Madhavan and Whitehead teaches or suggests “wherein the first online user interface device identifier and the first set top box identifier are associated without using personally identifiable information pertaining to a user of the set-top box that corresponds to the first set-top box identifier,” as recited in claim 1.

Petitioner contends that the combination of Madhavan and Whitehead teaches a “first online user interface device identifier” and a “first set top box identifier.” *See* Pet. 27–28, 38–39. Specifically, Petitioner contends that Madhavan’s client machine 130 and media device 140 respectively teach “a first online user interface device” and “a first set-top box” (*id.* 22–23 (citing Ex. 1008, Figs. 1, 2, 1:7–11, 1:47–49, 4:26–42, 5:6–11; Ex. 1003 ¶ 55)), and that “[i]t would have been obvious to provide device identifiers

for identifying the respective devices and for tracking user behavior, as described in Whitehead” (*id.* at 27–28 (citing Ex. 1015 ¶¶ 41, 66, 101, 118, 123; Ex. 1003 ¶¶ 61–63)). Further, Petitioner contends that “Whitehead describes that the devices in a common local area network and their identifiers are associated without using any personally identifiable information (PII).” *Id.* at 39 (citing Ex. 1003 ¶ 79). In particular, Petitioner relies on the embodiment shown in Whitehead’s Figure 5, and we reproduce Petitioner’s annotated version below.

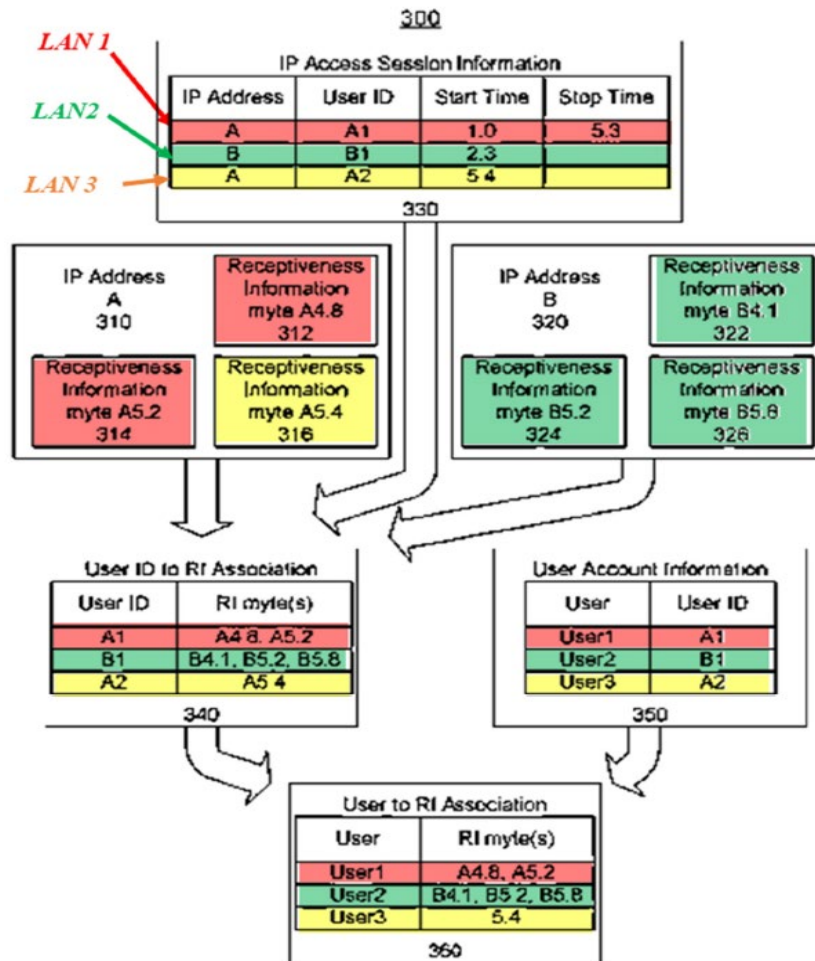


Figure 5

ROKU-1015, FIG. 5, annotated

Pet. 41. Whitehead Figure 5 “is a block diagram showing relationships between information to enable associating IP address-keyed receptiveness information to users, according to an exemplary embodiment.” Ex. 1015

¶ 12. Petitioner has annotated the drawing with colors to indicated users A1 (red), B1 (green), and A2 (yellow). Pet. 41.

Petitioner argues that by using IP access session information, “Whitehead associates user devices (e.g., PCs, set-to[p] boxes, etc.) coupled to a common home network and their corresponding device IDs using non-PII information.” *Id.* at 41–42 (citing Ex. 1015 ¶¶ 69, 80; Ex. 1003 ¶ 80). Specifically, Petitioner argues that a person of ordinary skill in the art “would have understood that as shown in annotated FIG. 5 of Whitehead, RI-mytes of the same annotated color . . . include usage data collected from different user devices and their corresponding device identifiers are associated,” where “Whitehead describes that a receptiveness information myte (RI-myte) may include a corresponding device ID.” *Id.* at 42 (citing Ex. 1015 ¶ 246; Ex. 1003 ¶¶ 81–83). In addition, Petitioner argues that Whitehead’s “using the IP session information identified by an IP address and timestamp achieves anonymous marketing using non-PII information, and the desirability of anonymous marketing techniques that use non-PII information.” *Id.* at 43.

Patent Owner challenges Petitioner’s contention that Whitehead teaches associating identifiers without using PII, and argues that “Whitehead’s Figure 5 performs what the Petition alleges to be an association of device identifiers by using both ‘User’ and ‘User ID’ information . . . which Whitehead discloses as constituting PII.” Prelim. Resp. 6–7. In particular, Patent Owner argues that “Whitehead’s Figure 5 can only arrive at the association of RI mytes to users in Block 360 by using

the ‘User’ and ‘User ID’ fields of in Blocks 330, 340, and 350.” *Id.* at 11. Patent Owner argues that the “User ID” field contains personally identifiable information because “Whitehead describes the ‘User ID’ of Figure 5 as a ‘unique user ID assigned to the user 30 by the service provider 40’” and “makes it painfully clear that the ‘unique user ID’ used in Figure 5 qualifies as ‘direct identification information’—i.e., ‘information that . . . directly . . . identifies the user.’” *Id.* at 12 (quoting Ex. 1015 ¶ 75). Patent Owner further argues that the “User” field contains personally identifiable information because “the ‘User’ data relied upon by the Figure 5’s process includes the actual identity of the user.” *Id.* at 14. In addition, Patent Owner argues that certain other portions of Whitehead that Petitioner cites regarding anonymous techniques that use non-PII are unrelated to the Figure 5 embodiment, and that Petitioner fails to explain why one would have modified Figure 5 to make associations between device identifiers without using PII. *Id.* at 15–18. We are persuaded by Patent Owner’s arguments.

Whitehead’s Figure 5 embodiment showing association of RI mytes from different devices does not support Petitioner’s contention that such an association is performed without using PII. The association of receptiveness information and particular users is central to Whitehead (*see, e.g.*, Ex. 1015, code (57) (“identify[ing] when the user is accessing the . . . services”; “collecting data”; “using the collected data to associate the user with certain marketing content”)), and this is evident in Whitehead’s Figure 5. Whitehead describes Figure 5 as “showing relationships between information to enable associating IP address-keyed receptiveness information to *users*.” Ex. 1015 ¶ 110 (emphasis added).

Specifically, Whitehead describes how “[b]y combining the information available in Block 310 with the information available in Block 330”—which includes the “User ID”—“the service provider 40 can associate each RI-myte with the user ID using IP address A when the RI myte was generated.” *Id.* at Fig. 5, ¶ 113. Because of that association, “the service provider 40 can associate RI-mytes A4.8 and A5.2 with user ID A1, RI-mytes B4.1, B5.2 and B5.8 with user ID B1[,] and RI-myte A5.4 with user ID A2 as represented in Block 340.” *Id.* ¶ 113. Whitehead further describes how “Block 350 can represent user account information maintained by the service provider 40 in at least one module” and that “[t]he user account information can associate each user with the user’s user ID.” Ex. 1015 ¶ 114. According to Whitehead, “[b]y combining the information available in Block 350 with the information available in Block 340, the service provider 40 can associate each RI-myte with a specific user and other information associated with that specific user.” *Id.* Thus, we agree with Patent Owner that Figure 5 of Whitehead teaches association of RI-mytes first with User IDs in block 340, and then with Users in block 360.

We are further persuaded by Patent Owner’s argument that both the “User ID” and “User” fields in Figure 5 contain PII. First, in discussing IP access session information, which “can include user identity information” that “either directly or indirectly identifies the user,” Whitehead provides that “direct identification information can include a unique user ID assigned to the user 30 by the service provider 40.” Ex. 1015 ¶ 75. In considering this disclosure along with block 330 in Whitehead’s Figure 5, one of ordinary skill in the art would understand that the “User ID” field in the IP session information of block 330 contains information that can be used to uniquely and directly identify a user—where Whitehead defines a user as

“an individual or group” (*id.* ¶ 30)—and is thus “personally identifiable information” as recited in claim 1. *See* Ex. 1001, 7:61–62 (“Personally Identifiable Information (PII)—information that can be used to identify a specific person.”).

Second, in describing the association between RI-mytes and Users in block 360 of Figure 5, Whitehead states that “[t]his association with each specific user can include association with each specific user’s name, address, telephone number or any other addressability information associated with the specific user.” Ex. 1015 ¶ 114. The Specification of the ’198 patent defines PII as including “name, . . . street address, . . . phone number (home, work, wireless), . . . or any other information that can assist in identifying a specific person.” Ex. 1001, 7:61–8:3. Accordingly, one of ordinary skill in the art would have understood that Whitehead’s “User” field contains “personally identifiable information” as recited in claim 1.

Petitioner stresses “the importance for associating devices of...user 30 with an IP address for each IP access session.” Pet. 43; *see also id.* at 19 (referring to “Whitehead’s teachings of associating devices of a common local area network based on a common IP address of a corresponding router”). But to be clear, the fact that Whitehead’s Figure 5 embodiment associates RI-mytes (and included device identifiers) in part by using non-PII, for example, an IP address—assuming the IP address is a dynamic IP address (*see* Ex. 1015 ¶ 70 (“An IP access session can begin via either static or dynamic processes.”); Ex. 1001, 7:61–8:13 (defining PII as including a “static IP address” and non-PII as including “dynamically assigned IP addresses”))—does not show that Whitehead teaches associating device identifiers *without* PII, as claimed. An IP address is not sufficient to associate RI-mytes as being related to the same IP access session in

Whitehead, because, as Petitioner notes, “the same IP address (e.g., ‘A’) may be assigned to different home routers/LANs at different times.”

Pet. 40; *see also* Ex. 1015 ¶ 112. As noted above and shown in Figure 5, Whitehead associates RI-mytes related to the same IP access session with User IDs relating to the respective IP access session, and Petitioner acknowledges as much by stating the following:

Using the corresponding IP access session information, the associated usage data and device identifiers are associated to the same user ID (e.g., ‘user 1,’ ‘user 2,’ and ‘user 3’ respectively) representing the corresponding user profile, and the association based on automatically recognizing that they are connected to a common local area network because they are associated with the same IP access session.

Pet. 42 (citing Ex. 1003 ¶¶ 81, 82). Petitioner makes no argument that Whitehead’s User IDs are not PII. *See id.* at 39–44. And, as discussed above, Whitehead’s Figure 5 uses the User IDs in Blocks 330, 340, and 360 as part of its association.

To the extent Petitioner asserts that the combination of an IP address and a timestamp is sufficient to associate two device identifiers without using PII,¹ Whitehead’s Figure 5 does not expressly show making an association between RI-mytes based on timestamps without the User IDs. Rather, as discussed above, RI-mytes are associated in block 340 of Figure 5 with the “User ID” field. Moreover, Petitioner does not specifically explain

¹ Pet. 40 (“Each IP access session is identified by a timestamp and an IP address of a router of a local area network, e.g., IP address ‘A’ and timestamp [1.0-5.3] for LAN 1 (annotated in red).”); *id.* at 43 (“[T]he IP session information identified by an IP address and timestamp achieves anonymous marketing using non-PII information.”).

why one would want to make a modification to Figure 5 to perform an association with a timestamp but not a User ID. *See id.* at 39–44.

We are not persuaded by Petitioner’s general reliance on Whitehead’s various disclosures regarding the use of non-PII information. Pet. 43–44. Namely, Whitehead describes that “[t]he distinction between PII and non-PII addressability information can be important to targeted marketers because anonymous marketing techniques can be considered more desirable, from a privacy standpoint, than non-anonymous marketing techniques.” Ex. 1015 ¶ 88. Whitehead also describes that “the use of an IP address and timestamp to identify the TAM [target audience member] can be selected where the service provider 40 wishes to operate the marketing service in an anonymous manner.” *Id.* ¶ 207. Petitioner also points to Whitehead’s claim 6 (Pet. 44), which recites that “associating the user with addressability information does not involve the association of personally identifiable information” (Ex. 1015, p. 25). Petitioner does not show, however, that these disclosures relate to forming an association between RI-mytes (and included device identifiers) in Whitehead’s Figure 5 embodiment upon which Petitioner primarily relies. *See* Pet. 43–44. Nor has Petitioner specifically explained why, in view of these disclosures, one of ordinary skill in the art would have associated RI-mytes in the Figure 5 embodiment without using the “User ID” field.

In conclusion, having reviewed the Petition and Patent Owner’s arguments in opposition, we determine that Petitioner has not shown a reasonable likelihood of prevailing on its assertion that claim 1, and similar independent claims 18 and 26, would have been unpatentable as obvious over Madhavan and Whitehead. Because of their dependence from claims 1, 18, and 26, we therefore determine that Petitioner has also failed to demonstrate a reasonable likelihood of prevailing on its assertion that

claims 3–5, 8, 17, 20, 21, 28, and 29 would have been unpatentable as obvious over Madhavan and Whitehead.

D. Remaining Obviousness Grounds

Petitioner asserts that claims 9, 10, 25, and 33 would have been obvious over Madhavan, Whitehead, and Vallier. Pet. 63–67. Petitioner further asserts that claims 11–16, 22–24, and 30–32 would have been obvious over Madhavan, Whitehead, and Varghese. Pet. 68–81. Neither of these grounds addresses the deficiencies identified above with respect to the “without using personally identifiable information” contentions in the Petition for independent claims 1, 18, and 26. Accordingly, we determine that the remaining grounds, because they challenge claims that directly or indirectly depend from claims 1, 18, and 26, also fail to show the reasonable likelihood threshold of institution.

III. CONCLUSION

For the foregoing reasons, we determine that Petitioner has not established a reasonable likelihood of prevailing on its assertion that any of claims 1, 3–5, 8–18, 20–26, and 28–33 of the ’198 patent are unpatentable.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is *denied*, and no trial is instituted.

IPR2022-00960
Patent 10,321,198 B2

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