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Patent Owner's Presentation
IPR2023-00630
U.S. Patent No. 7,440,559

Netflix, Inc. v. VideoLabs, Inc.
June 27, 2024

EX2004

Netflix, Inc. v. VideoLabs, Inc.
VideoLabs, Inc.
IPR2023-00630

Statutory Grounds for Challenges

Ground	Assertion	Petitioned Claims
1	Anticipation by Cassin	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
2	Obviousness based on Cassin in view of Huston	1-24
3	Obviousness based on Huston	1-24

Paper 2, Petition, at 22



'559 Patent

Title: System And Associated Terminal,
Method And Computer Program Product For
Controlling The Flow Of Content

Original Assignee: Nokia Corporation

Priority Date: October 22, 2003

Petitioned Claims: 1-24

(12) United States Patent Muhonen et al.	(15) Date of Patent: US 7,440,559 B2 (45) Date of Patent: Oct. 21, 2008
(54) SYSTEM AND ASSOCIATED TERMINAL, METHOD AND COMPUTER PROGRAM PRODUCT FOR CONTROLLING THE FLOW OF CONTENT	2002/0062336 A1 5/2002 Toelssius et al. 2002/0069046 A1 6/2002 Aaltonen et al. 2002/0087997 A1 7/2002 Dahlstrom 2003/0084177 A1 5/2003 Mulligan 2003/0104801 A1 6/2003 Koulikiotis 2003/0134651 A1 7/2003 Sarkkinen et al. 2003/0174645 A1 6/2003 Pustainen et al. 2004/0213207 A1* 10/2004 Silver et al. 370:352 2005/0086318 A1* 4/2005 Aubault 709:213
(75) Inventors: Ahti Muhonen, Hirvikaara (FI); Antti-Pentti Vainio, Espoo (FI); Ari Hännikainen, Turku (FI)	FOREIGN PATENT DOCUMENTS
(73) Assignee: Nokia Corporation, Espoo (FI)	EP 1130 459 A2 9/2001 WO WO 01/45319 A1 6/2001 WO WO 03/001755 A1 1/2003
(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 820 days.	OTHER PUBLICATIONS
(21) Appl. No.: 10/690,692	<i>3rd Generation Partnership Project; Technical Specification Group Services and System Aspects; Multimedia Broadcast/Multicast Service; Stage 1 (Release 6); 3 GPP TS 22.146; Mar. 2003; 17 pages; V6.2.0; 3rd Generation Partnership Project (3GPP™).</i>
(22) Filed: Oct. 22, 2003	* cited by examiner
(65) Priority Publication Data US 2005/0089022 A1 Apr. 28, 2005	<i>Primary Examiner—Qiyun H Nguyen (74) Attorney, Agent, or Firm—Alston & Bird LLP</i>
(51) Int. Cl. H04M 3/42 (2006.01)	(57) ABSTRACT
(52) U.S. Cl. (2006.01) 379/201.01; 379/265.09; 379/221.08; 379/221.09; 379/221.11; 379/221.12; 370/352	A system for controlling a flow of content includes a terminal and a network entity. The terminal is capable of sending a content status including terminal status information having a listing of one or more pieces of content stored in a memory of the terminal. The network entity includes a content flow manager that is capable of receiving the terminal status information. Then, based upon the terminal status information, the content flow manager can control the flow of content to the terminal. More particularly, for example, the content flow manager can be capable of controlling the terminal to delete at least one piece of content from a memory of the terminal, and/or download at least one piece of content from a source of content.
(58) Field of Classification Search 370/352; 379/265.09; 221.08; 221.09; 221.11; 221.12; 379/201.01	24 Claims, 5 Drawing Sheets
See application file for complete search history.	FIG. 1
(56) References Cited U.S. PATENT DOCUMENTS	5,450,482 A * 9/1995 Chen et al. 379:230 5,884,032 A * 3/1999 Bateman et al. 709:204 5,974,454 A 10/1999 Apple et al. 379:201.01 5,978,806 A * 11/1999 Lund 379:201.01 6,029,175 A 2/2000 Chow et al. 2002/0021809 A1 2/2002 Salo et al. 2002/0023264 A1 2/2002 Aaltonen et al.

EX1001, '559 Patent, Title Page; Paper 16, POR, at 2-3

'559 Patent: Claim 1

1. An apparatus comprising:

a processor configured to receive, from a terminal located remote from the apparatus, a content status including terminal status information, and configured to receive server status information regarding a source of content, wherein the server status information comprises a listing of at least one piece of content available from the source, wherein the processor is configured to send, to the terminal, a response to the content status that instructs the terminal to perform one or more actions to thereby control the flow of content to the terminal based upon the terminal status information and the server status information, and

wherein the at least one piece of content available from the source, and the content for which the processor is configured to control the flow, comprise multimedia content.

EX1001, '559 patent, at claim 1



'559 Patent: Claim 7

7. An apparatus comprising:

a controller operable with a terminal including a memory configured to store at least one piece of content, wherein the controller is configured to send a content status including terminal status information comprising a listing of at least one piece of content stored in the memory, wherein the controller is configured to send the content status to a remote network entity, and receive a response to the content status from the network entity that instructs the controller to perform one or more actions to thereby control a flow of content to the terminal based upon the terminal status information, and

wherein the at least one piece of content stored in the memory, and the content for which the network entity is configured to control the flow, comprise multimedia content.

EX1001, '559 patent, at claim 7; claims 13, 19



Grounds of the Petition

Ground	Assertion	Petitioned Claims
1	Anticipation by Cassin	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
2	Obviousness based on Cassin in view of Huston	1-24
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Ground 1: Anticipation by Cassin

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Cassin: Overview

(19) **United States**

(12) **Patent Application Publication**

Cassin et al.

(10) Pub. No.: **US 2003/0023427 A1**

(43) Pub. Date: **Jan. 30, 2003**

(54) **DEVICES, METHODS AND A SYSTEM FOR IMPLEMENTING A MEDIA CONTENT DELIVERY AND PLAYBACK SCHEME**

(21) Appl. No.: **09/912,408**

(22) Filed: **Jul. 26, 2001**

(76) Inventors: **Lionel Cassin**, Philadelphia, PA (US);
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Donald A. Pellegrino, Philadelphia, PA (US);
David J. Acquesta, Philadelphia, PA (US)

Publication Classification

(51) Int. Cl.⁷ **G10L 21/00**

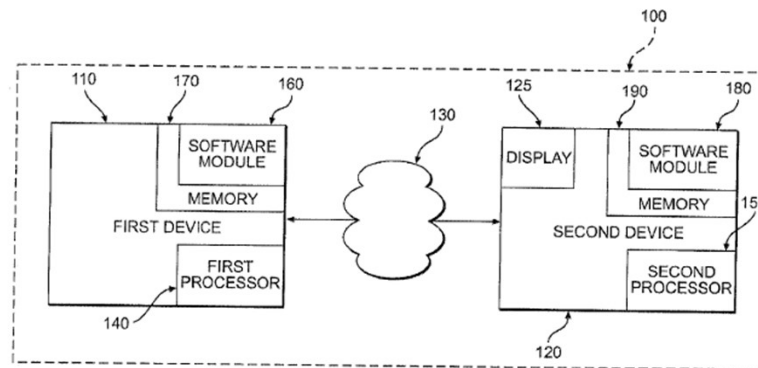
(52) U.S. Cl. **704/201**

(57) ABSTRACT

Devices, methods and a system are provided for implementing a media content delivery and playback scheme, in which media content is delivered asynchronously via a communication channel to facilitate playback of the media content via a remote device.

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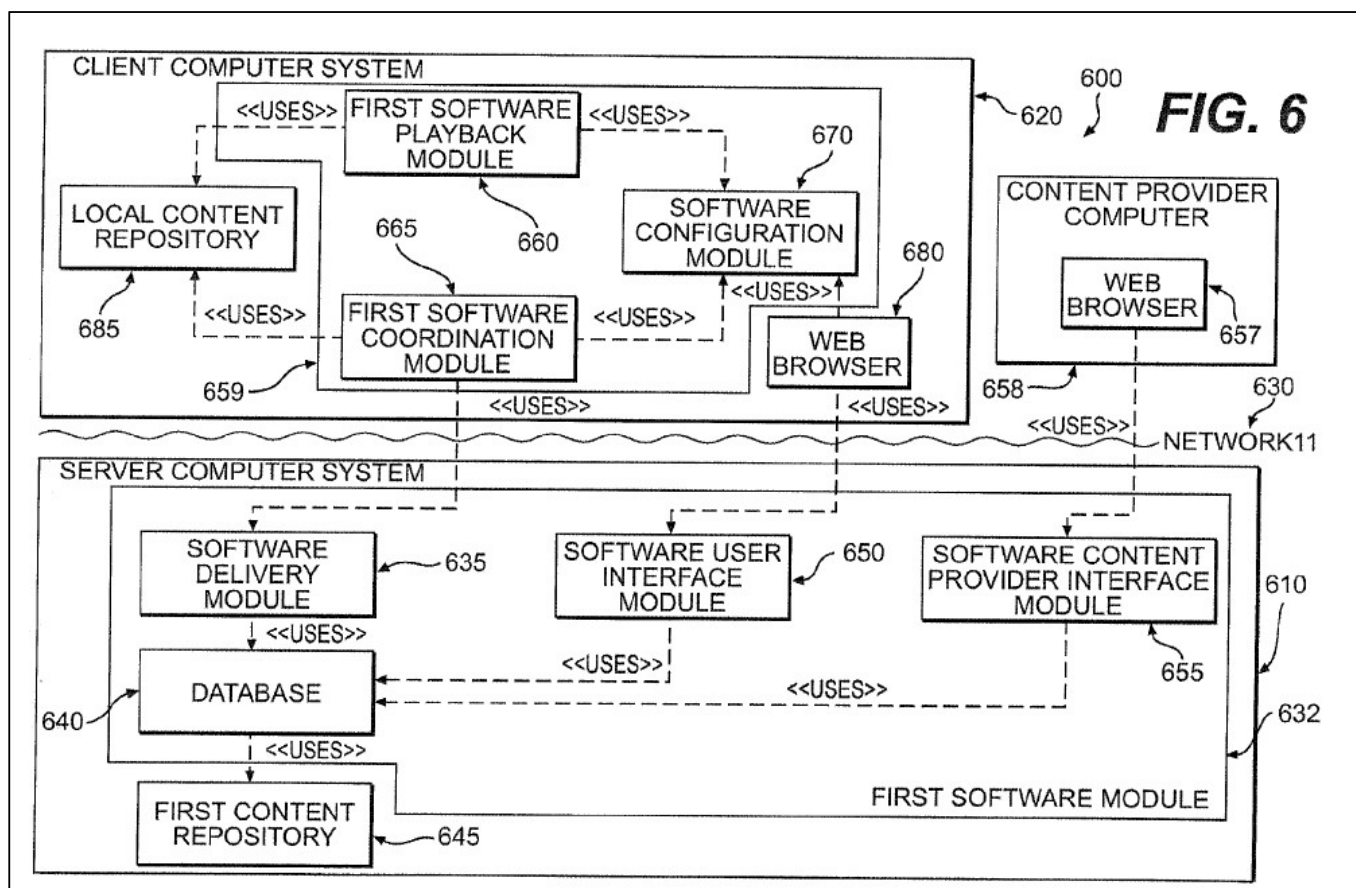
EX1004, Cassin, at Title Page



DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

Presentation of Patent Owner

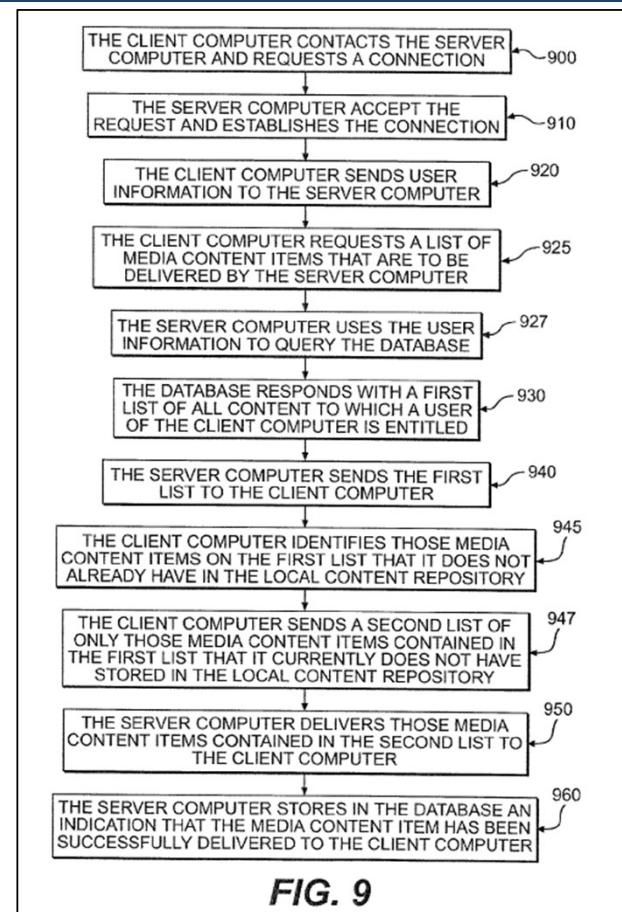
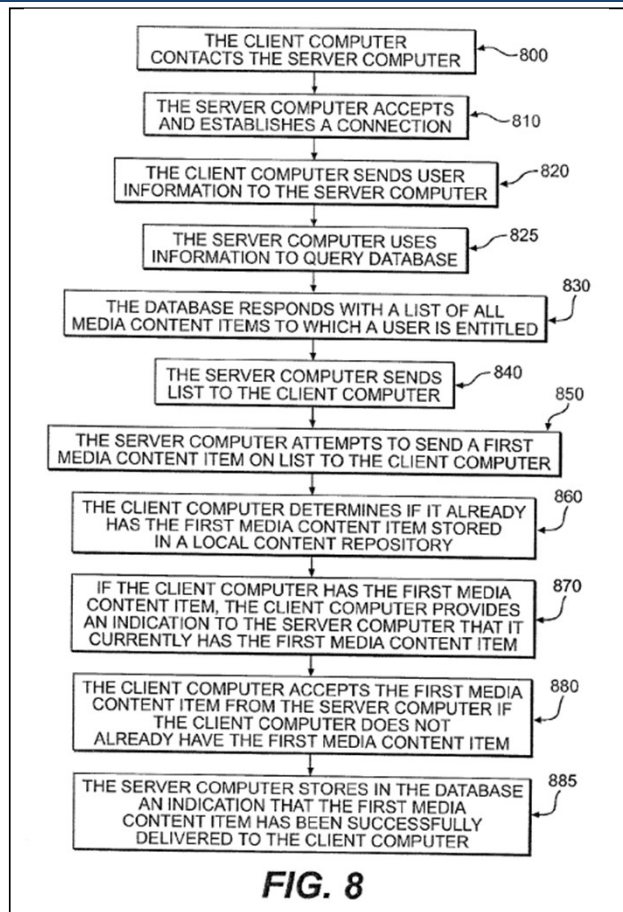
Cassin: Overview



EX1004, Cassin, at Fig. 6; Paper 16, POR, at 9-10



Cassin: Overview



EX1004, Cassin, at Figs. 8, 9; Paper 16, POR, at 11-15



Cassin: Overview

“*The device delivers the media content* to the remote device at the second predetermined time.”

EX1004, Cassin, ¶0012 (emphasis added); Paper 16, POR, at 10

“According to another aspect of the ninth embodiment, *the device delivers the media content.*”

EX1004, Cassin, ¶0050 (emphasis added); Paper 16, POR, at 10

“The first device 110 (e.g., a server computer) and the second device 120 (e.g., a client computer) are holding a private and interactive session with each other. In this manner, the second device 120 can request a specific media content item, and *the first device 110 delivers that media content item* solely to the second device 120.”

EX1004, Cassin, ¶0130 (emphasis added);
Paper 16, POR, at 10

“1. *A device* comprising a processor that controls asynchronous delivery of media content over a communication channel to facilitate playback of the media content through a remote device, wherein the playback of the media content is enabled at a predetermined time after the delivery of the media content.

2. The device defined in claim 1, wherein *said device delivers the media content.*”

EX1004, Cassin, at claims 1, 2 (emphasis added); Paper 16, POR, at 10



Cassin Does Not Disclose Each Element of the '559 Patent

Missing Claim Elements	Claims
“a response to the content status [from the network entity]* that instructs the terminal [controller]* to perform one or more actions to thereby control the [a]* flow of content to the terminal based upon the terminal status information”	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
“server status information regarding a source of content, wherein the server status information comprises a listing of at least one piece of content available from the source”	1, 2, 4
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22

*Non-substantive differences in claim 7



Cassin Does Not Disclose Each Element of the '559 Patent

Missing Claim Elements	Claims
“a response to the content status [from the network entity]* that instructs the terminal [controller]* to perform one or more actions to thereby control the [a]* flow of content to the terminal based upon the terminal status information”	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
“server status information regarding a source of content, wherein the server status information comprises a listing of at least one piece of content available from the source”	1, 2, 4
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22

*Non-substantive differences in claim 7



“A Response to the Content Status That Instructs the Terminal to Perform One or More Actions to Thereby Control the Flow of Content to the Terminal Based Upon the Terminal Status Information”

a response to the content status that instructs the terminal to perform one or more actions to thereby control the flow of content to the terminal based upon the terminal status information

EX1001, '559 patent, at claim 1



The Petition's Mapping: "Response to the Content Status That Instructs . . ."

First Protocol:

1. "sending the client computer the list of content the user is entitled" (Paper 2, Pet., at 25)
2. "attempting to send the first media content item on the list to the client" (Paper 2, Pet., at 25)
3. sending the second media content item on the list to the client, in the event "the client does not have the second media content item stored in its local content repository" (Paper 2, Pet., at 25-26)
4. "not delivering the first media content item to the client computer" (Paper 2, Pet., at 25)

Second Protocol:

5. "delivering from its database 640 and first content repository 645 those media content items from the client's list" (Paper 2, Pet., at 26)



The Petition's Mapping: "Content Status Including Terminal Status Information"

1. "user information" (information about the user of the client computer) (Paper 2, Pet., at 21)
-First and Second Protocol
2. a "request for a list of content" (Paper 2, Pet., at 21)
-Second Protocol
3. "an indication . . . to the server computer that it [the client computer] currently has the media 'content' item stored" (Paper 2, Pet., at 22)
-First Protocol
4. "list of content items that it does not have" (Paper 2, Pet., at 23)
-Second Protocol



Petitioner's First Alleged "Response That Instructs. . ."

First Protocol:

1. "sending the client computer the list of content the user is entitled" (Paper 2, Pet., at 25)
2. "attempting to send the first media content item on the list to the client" (Paper 2, Pet., at 25)
3. sending the second media content item on the list to the client, in the event "the client does not have the second media content item stored in its local content repository" (Paper 2, Pet., at 25-26)
4. "not delivering the first media content item to the client computer" (Paper 2, Pet., at 25)

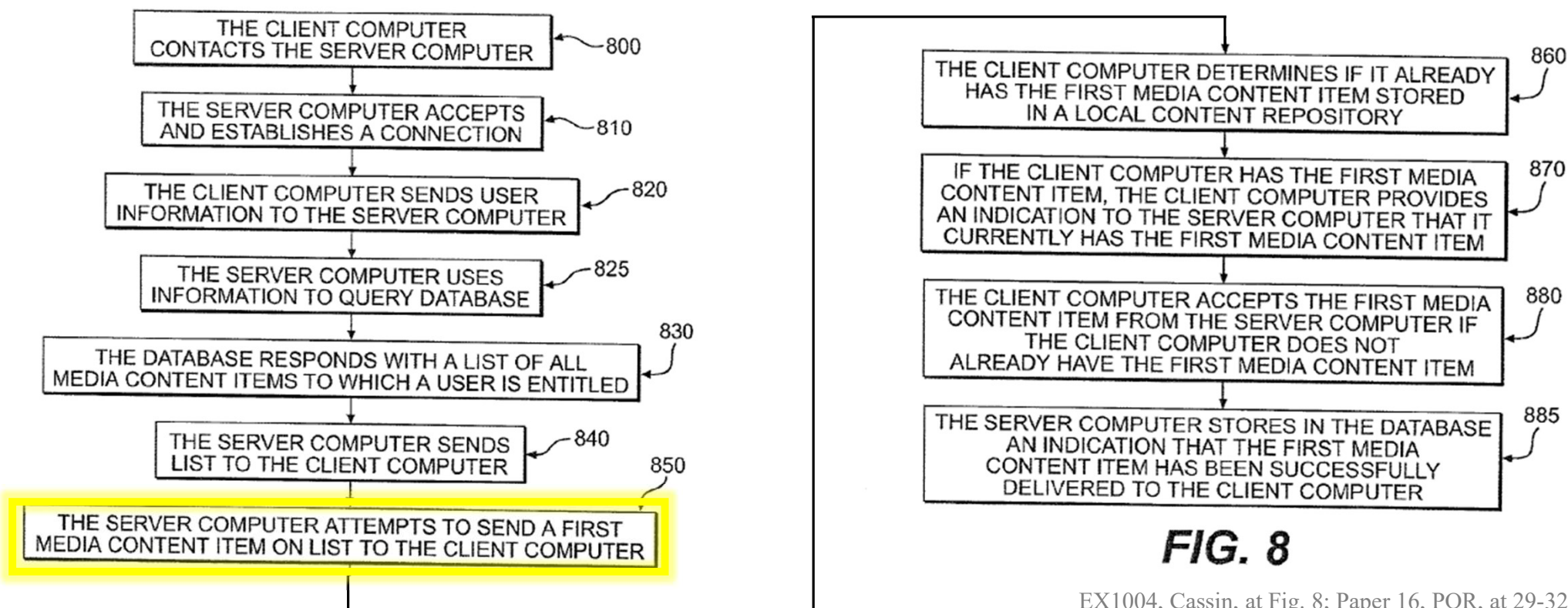
Second Protocol:

5. "delivering from its database 640 and first content repository 645 those media content items from the client's list" (Paper 2, Pet., at 26)



Petitioner's First Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #1: attempting to send the first media content item on the list to the client



EX1004, Cassin, at Fig. 8; Paper 16, POR, at 29-32



Petitioner's First Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #1: attempting to send the first media content item on the list to the client

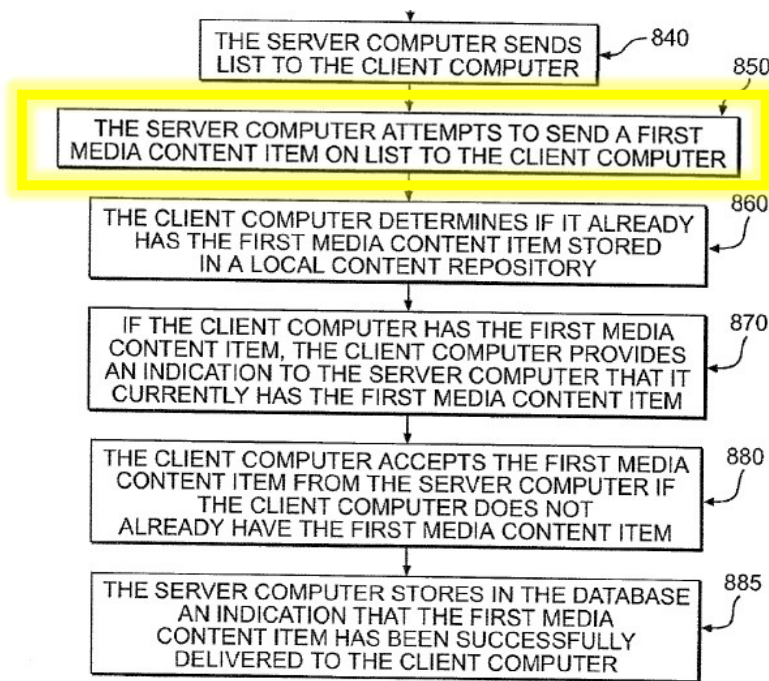


FIG. 8

In step 830, the database responds with a list of all content to which that user is entitled. In step 840, the server computer sends the list to the client. Thereafter, in step 850, the server computer attempts to send a first media content item on the list to the client computer. In step 860, the client computer determines if it already has the media content item stored in the local content repository 685. If the client computer does have the media content item, then in step 870, the client computer provides an indication to the server computer that it currently has the media content item, such that the server computer will offer the next media item on the list. If the client computer does not have the media content item, then in step 880, the client computer accepts the media content item from the server computer. Thereafter, steps 850-880 are repeated for each media content item, as necessary.

EX1004, Cassin, at Fig. 8, ¶0164; Paper 16, POR, at 29-32



Petitioner's First Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #1: attempting to send the first media content item on the list to the client

"The device delivers the media content to the remote device at the second predetermined time."

EX1004, Cassin, ¶0012 (emphasis added); Paper 16, POR, at 22-23

"According to another aspect of the ninth embodiment, the device delivers the media content."

EX1004, Cassin, ¶0050 (emphasis added); Paper 16, POR, at 22-23

"The first device 110 (e.g., a server computer) and the second device 120 (e.g., a client computer) are holding a private and interactive session with each other. In this manner, the second device 120 can request a specific media content item, and the first device 110 delivers that media content item solely to the second device 120."

EX1004, Cassin, ¶0130 (emphasis added);
Paper 16, POR, at 10

"Thereafter, in step 850, the server computer attempts to send a first media content item on the list to the client computer."

EX1004, Cassin, ¶0164 (emphasis added); Paper 16, POR, at 22-23

"In step 950, the server computer delivers those media content items contained in the second list to the client computer."

EX1004, Cassin, ¶0166 (emphasis added); Paper 16, POR, at 22-23



Petitioner's First Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #1: attempting to send the first media content item on the list to the client

"1. *A device* comprising a processor that controls asynchronous delivery of media content over a communication channel to facilitate playback of the media content through a remote device, wherein the playback of the media content is enabled at a predetermined time after the delivery of the media content.

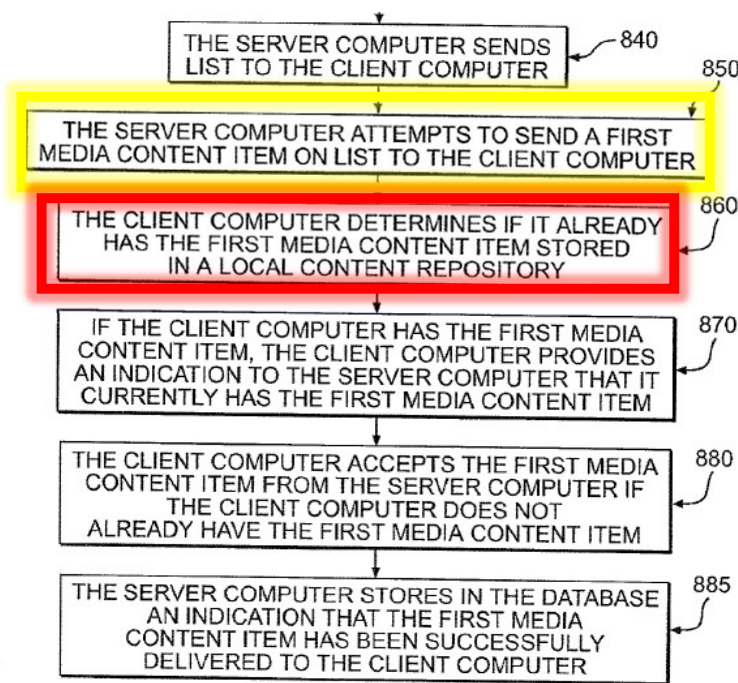
2. The device defined in claim 1, wherein *said device delivers the media content.*"

EX1004, Cassin, at claims 1, 2 (emphasis added); Paper 16, POR, at 10



Petitioner's First Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #1: attempting to send the first media content item on the list to the client



In step 830, the database responds with a list of all content to which that user is entitled. In step 840, the server computer sends the list to the client. Thereafter, in step 850, the server computer attempts to send a first media content item on the list to the client computer. In step 860, the client computer determines if it already has the media content item stored in the local content repository 685. If the client computer does have the media content item, then in step 870, the client computer provides an indication to the server computer that it currently has the media content item, such that the server computer will offer the next media item on the list. If the client computer does not have the media content item, then in step 880, the client computer accepts the media content item from the server computer. Thereafter, steps 850-880 are repeated for each media content item, as necessary.

EX1004, Cassin, at Fig. 8, ¶0164; Paper 16, POR, at 29-32



Petitioner's Reply Arguments Do Not Show That Cassin Discloses the Claimed "Response That Instructs. . ."

Response #1: attempting to send the first media content item on the list to the client

Petitioner's Reply Arguments

- “When the server instructs the client to download the media content item, the server satisfies the claimed ‘instructs the terminal to perform one or more actions to thereby control the flow of content to the terminal.’”
Paper 19, Reply, at 14
- “Thus, when Cassin’s server attempts to send or deliver a media content item or items to the client, the server is controlling the flow of content, which necessarily means that the server ‘instructs the terminal to perform one or more actions [i.e., downloading and storing] to thereby control the flow of content to the terminal.’”
Paper 19, Reply, at 12
- “[W]hen the server offers a media item for the client to download, the server is ‘instructing the terminal to perform one or more actions to thereby control the flow of content.’”
Paper 19, Reply, at 11



Petitioner's Reply Arguments Do Not Show That Cassin Discloses the Claimed "Response That Instructs. . ."

Response #1: attempting to send the first media content item on the list to the client

Q. Well, no. Figure 9 says that the client computer sends a second list of only those media content items contained in the first list that it currently does not have stored in the local content repository, correct?

A. I agree.

Q. Okay. And so that response that the client computer sends, that's based on determining the media contents that the client does not have in the local content repository 685, right?

A. I agree with that too.

EX2003, Wechselberger dep., at 27:6-16; Paper 16, POR, at 31-32



Petitioner's Argument That the Specification Contemplates the Server Performing the “Action” Is Wrong

Response #1: attempting to send the first media content item on the list to the client

As shown in block 100, a method of controlling storage of content generally includes the terminal 10 *downloading or otherwise receiving, at one or more points in time, one or more pieces of content* from a content source, such as the origin server 24, the digital broadcast receiver 28 or the like.

EX1001, '559 patent, at 11:57-60 (emphasis in Reply); Paper 19, Reply, at 11-12



Petitioner's Argument That the Specification Contemplates the Server Performing the “Action” Is Wrong

Response #1: attempting to send the first media content item on the list to the client

With the listing of one or more pieces of content stored in the memory of the terminal in the terminal status information, *the control flow manager can be capable of instructing the terminal* to delete one or more pieces of content from the memory of the terminal based upon the listing of the piece(s) of content stored in the memory of the terminal.

EX1001, '559 patent, at 3:26-51; Paper 20, Sur-Reply, at 5

In such instances, the content flow manager can send *a response to the terminal instructing the terminal* to neither delete nor download any pieces of content.

EX1001, '559 patent, at 14:12-23; Paper 20, Sur-Reply, at 5



Petitioner's First Alleged "Response . . ." Is Not a Response "to the Content Status" "Based Upon the Terminal Status Information"

Response #1: attempting to send the first media content item on the list to the client
Content Status: user information

a response to the content status that instructs the terminal to perform one or more actions to thereby control the flow of content to the terminal based upon the terminal status information



“User Information” Is Not “Content Status Including Terminal Status Information”

Response #1: attempting to send the first media content item on the list to the client
Content Status: user information

[0191] A fourth media content item containing a news audio program is included in the Inbox folder 710. The user decides to listen to the latest installment of the news audio program to which the user Subscribes. **The sponsor for this content item knows from the statistical *user information* gathered for that user, that the user is a woman between 35-50 years of age and making between \$25,000 to \$35,000 a year income.**

EX1004, Cassin, ¶0191 (emphasis added);
Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9



“User Information” Is Not “Content Status Including Terminal Status Information”

Content Status: user information

[0035] According to still yet another aspect of the fifth embodiment the software module may also include a first registration module that receives *user information* from a user of the device. The device may also transmit the *user information* to the remote device to facilitate the delivery of the media content to the device.

EX1004, Cassin, ¶0035; Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9

[0122] The software module 180 may also include a first software registration module 318 that receives user information from a user of the second device 120. The second device 120 may also transmit the *user information* to the remote device to facilitate the delivery of the media content to the second device 120.

EX1004, Cassin, ¶0122; Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9

[0154] The second software module also includes a software registration module (not specifically shown) that receives *user information* from a user of the client computer. The registration module may be implemented as a web browser 680 through which a user of the client computer can interact with the server computer to register or obtain information about media content or the user’s account status.

EX1004, Cassin, ¶0154; Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9



“User Information” Is Not “Content Status Including Terminal Status Information”

Content Status: user information

The first protocol is illustrated in FIG. 8. In step 800, the client computer contacts the server computer and requests a connection. In step 810, the server computer accepts and establishes the connection. Thereafter, in step 820, the client computer sends *user information* to the server. Thereafter, in step 825, the server computer uses the *user information* to query the database 640.

EX1004, Cassin, ¶0164; Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9

In step 910, the server computer accepts and establishes the connection. Thereafter, in Step 920, the client computer sends *user information* to the server. In step 925, the client computer would request a list of content that should be delivered. In step 927, the server computer uses the *user information* to query the database 640.

EX1004, Cassin, ¶0166; Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9

[0185] Preferably, a user will never have to re-type *user information* to make a purchase from the System. Thus, *user data* could be exchanged with third-party vendors to automatically set up an account for the user. Alternatively, the purchased merchandise may be billed to the user's system account status.

EX1004, Cassin, ¶0185; Paper 16, POR, at 25, 42; Paper 20, Sur-Reply, at 6-9



Petitioner's Second Alleged "Response That Instructs. . ."

First Protocol:

1. "sending the client computer the list of content the user is entitled" (Paper 2, Pet., at 25)
2. "attempting to send the first media content item on the list to the client" (Paper 2, Pet., at 25)
3. sending the second media content item on the list to the client, in the event "the client does not have the second media content item stored in its local content repository" (Paper 2, Pet., at 25-26)
4. "not delivering the first media content item to the client computer" (Paper 2, Pet., at 25)

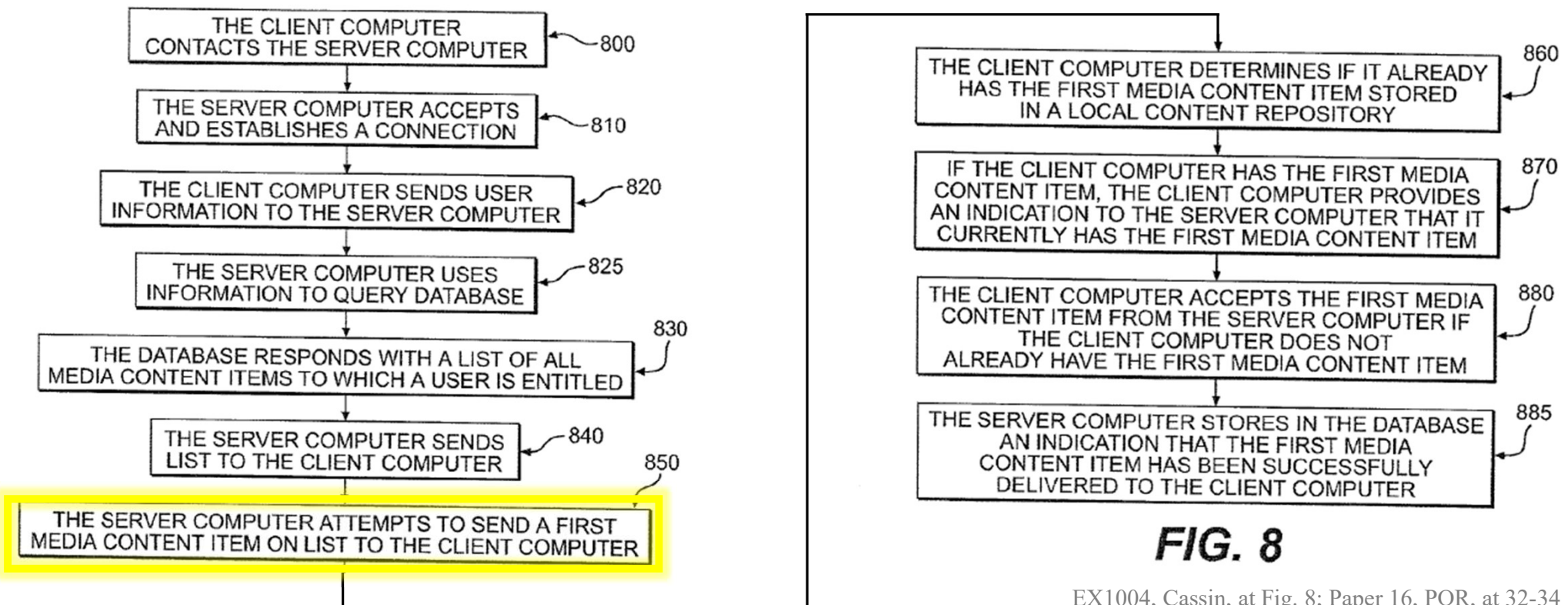
Second Protocol:

5. "delivering from its database 640 and first content repository 645 those media content items from the client's list" (Paper 2, Pet., at 26)



Petitioner's Second Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #2: offering the next media content item on the list to the client



EX1004, Cassin, at Fig. 8; Paper 16, POR, at 32-34



Petitioner's Second Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #2: offering the next media content item on the list to the client

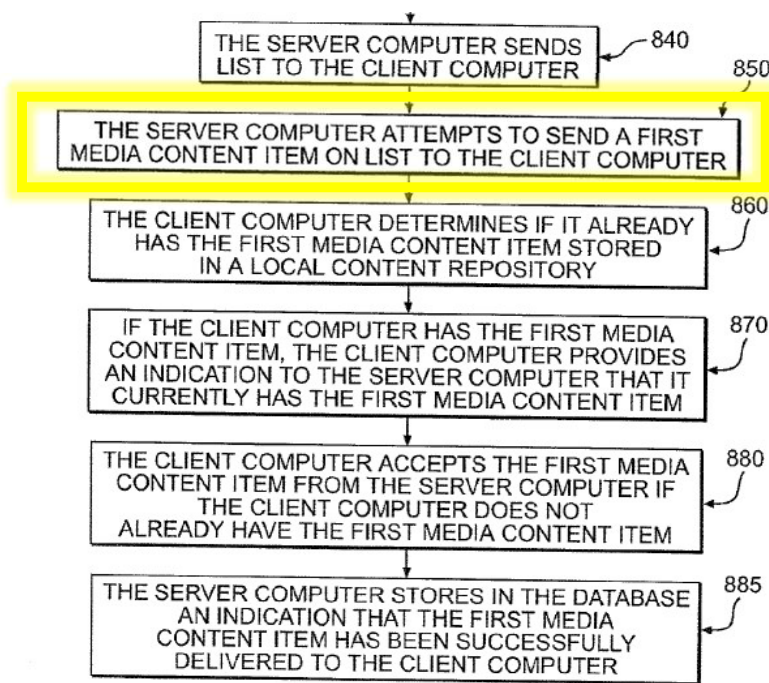


FIG. 8

In step 830, the database responds with a list of all content to which that user is entitled. In step 840, the server computer sends the list to the client. Thereafter, in step 850, the server computer attempts to send a first media content item on the list to the client computer. In step 860, the client computer determines if it already has the media content item stored in the local content repository 685. If the client computer does have the media content item, then in step 870, the client computer provides an indication to the server computer that it currently has the media content item, such that the server computer will offer the next media item on the list. If the client computer does not have the media content item, then in step 880, the client computer accepts the media content item from the server computer. Thereafter, steps 850-880 are repeated for each media content item, as necessary.

EX1004, Cassin, at Fig. 8, ¶0164; Paper 16, POR, at 32-34



Petitioner's Second Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #2: offering the next media content item on the list to the client

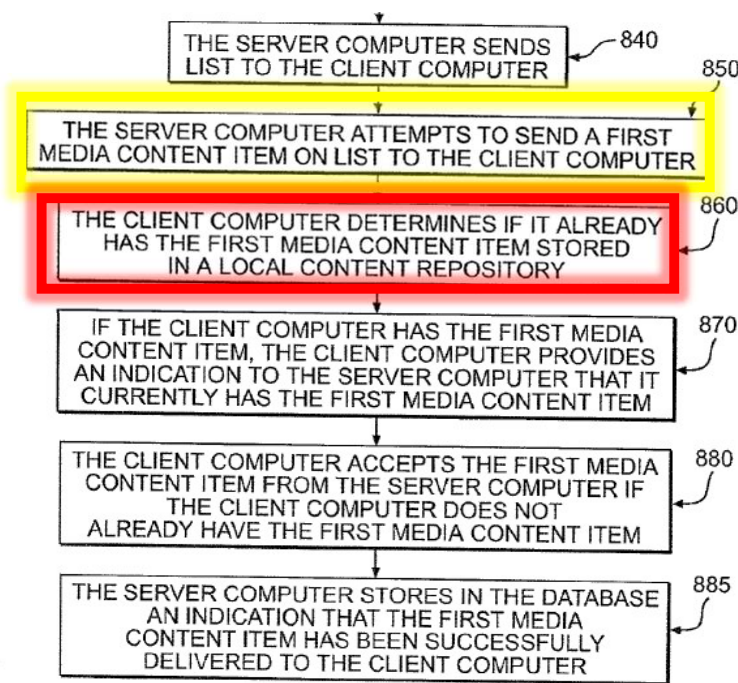


FIG. 8

In step 830, the database responds with a list of all content to which that user is entitled. In step 840, the server computer sends the list to the client. Thereafter, in step 850, the server computer attempts to send a first media content item on the list to the client computer. In step 860, the client computer determines if it already has the media content item stored in the local content repository 685. If the client computer does have the media content item, then in step 870, the client computer provides an indication to the server computer that it currently has the media content item, such that the server computer will offer the next media item on the list. If the client computer does not have the media content item, then in step 880, the client computer accepts the media content item from the server computer. Thereafter, steps 850-880 are repeated for each media content item, as necessary.

EX1004, Cassin, at Fig. 8, ¶0164; Paper 16, POR, at 32-34



Petitioner's Second Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #2: offering the next media content item on the list to the client

Q. Okay. And that tree of whether it says yes, I have it or no, I don't is just based on it looking into its own storage and determining whether or not it has it?

A. Yes.

Q. Okay. *So then after that, the server computer sends the next piece of content, right?*

A. *Yes.* There will either have been an acceptance of the first offer or not, and the last sentence of paragraph 164 says: Thereafter, Steps 850 through 880 are repeated for each media content as necessary.

EX2003, Wechselberger dep., at 24:1-12 (emphasis added); Paper 16, POR, at 33



Petitioner's Third Alleged "Response That Instructs. . ."

First Protocol:

1. "sending the client computer the list of content the user is entitled" (Paper 2, Pet., at 25)
2. "attempting to send the first media content item on the list to the client" (Paper 2, Pet., at 25)
3. sending the second media content item on the list to the client, in the event "the client does not have the second media content item stored in its local content repository" (Paper 2, Pet., at 25-26)
4. "not delivering the first media content item to the client computer" (Paper 2, Pet., at 25)

Second Protocol:

5. "delivering from its database 640 and first content repository 645 those media content items from the client's list" (Paper 2, Pet., at 26)



Petitioner’s Third Alleged “Response That Instructs. . .” Does Not “Instruct” the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #3: delivering the media content items from the client’s list

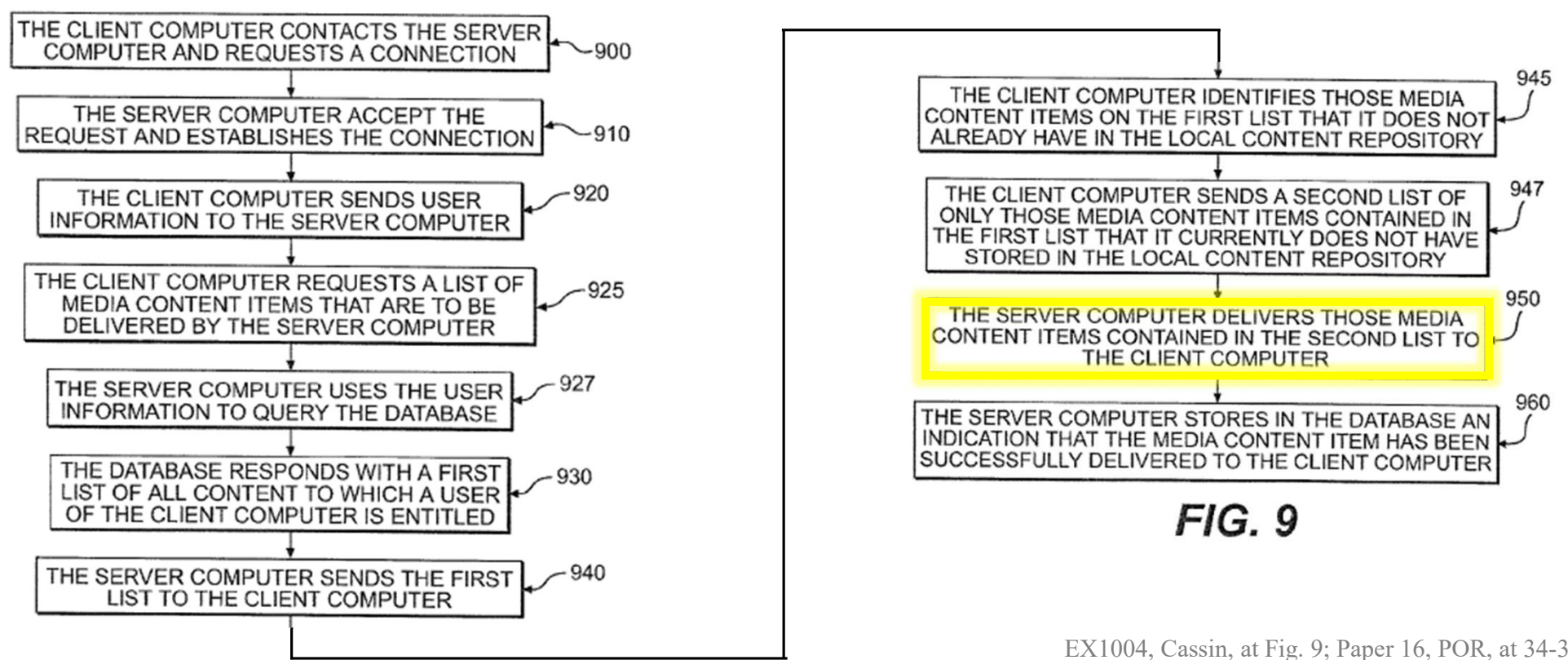


FIG. 9

EX1004, Cassin, at Fig. 9; Paper 16, POR, at 34-37



Petitioner's Third Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #3: delivering the media content items from the client's list

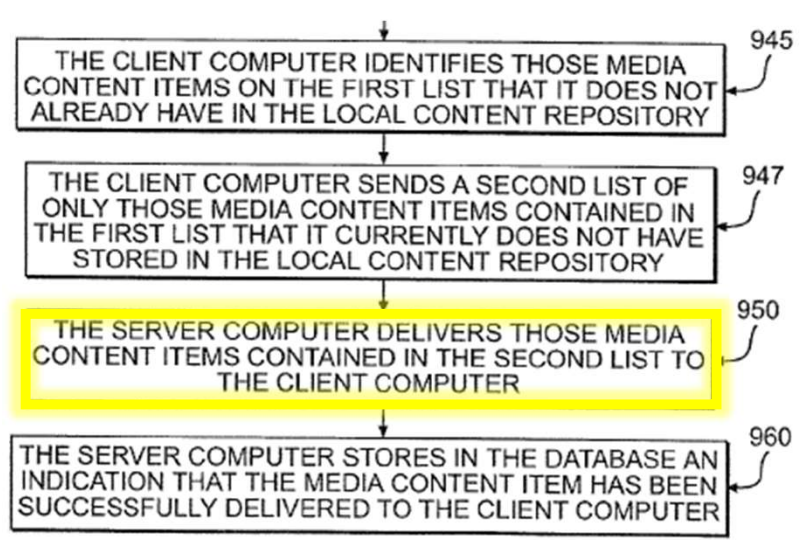


FIG. 9

Thereafter, in step 945, the client computer identifies those media content items on the first list that it does not already have in the local content repository 685. In step 947, the client computer would send a second list of only those media content items contained in the first list that it currently does not have stored in the local content repository 685. In step 950, the server computer delivers those media content items contained in the second list to the client computer.

After the media content items have been success fully delivered, in step 950, the step 960 may be performed as an additional option, in which the server computer stores in the database 640 an indication that the media content item has been successfully downloaded to the client computer.

EX1004, Cassin, at Fig. 9, ¶0166; Paper 16, POR, at 34-37



Petitioner's Third Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #3: delivering the media content items from the client's list

Q. Then the server computer delivers those media content items contained in the second list to the client computer, correct?

A. Yes, Step 950.

EX2003, Wechselberger dep., at 27:20-28:1; Paper 16, POR, at 35



Petitioner's Third Alleged "Response That Instructs. . ." Does Not "Instruct" the Terminal to Take an Action to Control the Flow of Content to the Terminal

Response #3: delivering the media content items from the client's list

Q. So -- but after the client computer sends a second list, this server delivers the media content items contained in that second list to the client computer without receiving any further information from the client, correct?

A. I'm just looking in detail at paragraph 166. The text in there says that Step 947, the client computer sends a second list of only those media content items contained in the first list that it currently does not have stored in local content repository 685. In Step 950, the server computer delivers those media content items contained in the second list, so it doesn't say anything about other information.

EX2003, Wechselberger dep., at 29:16-30:7; Paper 16, POR, at 35



Cassin Does Not Disclose Each Element of the '559 Patent

Missing Claim Elements	Claims
“a response to the content status [from the network entity]* that instructs the terminal [controller]* to perform one or more actions to thereby control the [a]* flow of content to the terminal based upon the terminal status information”	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
“server status information regarding a source of content, wherein the server status information comprises a listing of at least one piece of content available from the source”	1, 2, 4
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22

*Non-substantive differences in claim 7



“Server Status Information Regarding a Source of Content, Wherein the Server Status Information Comprises a Listing of at Least One Piece of Content Available From the Source”

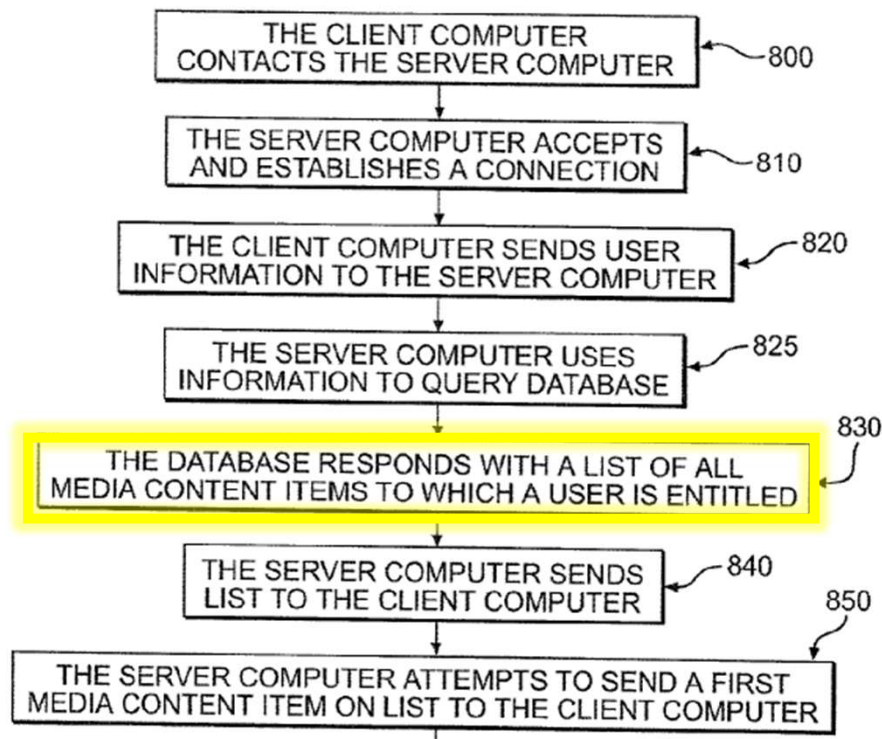
“server status information regarding a source of content, wherein the server status information comprises a listing of at least one piece of content available from the source”

EX1001, '559 patent, at claim 1



Cassin Does Not Disclose the Server Status Information Comprises a Listing of at Least One Piece of Content Available From the Source

FIG. 8

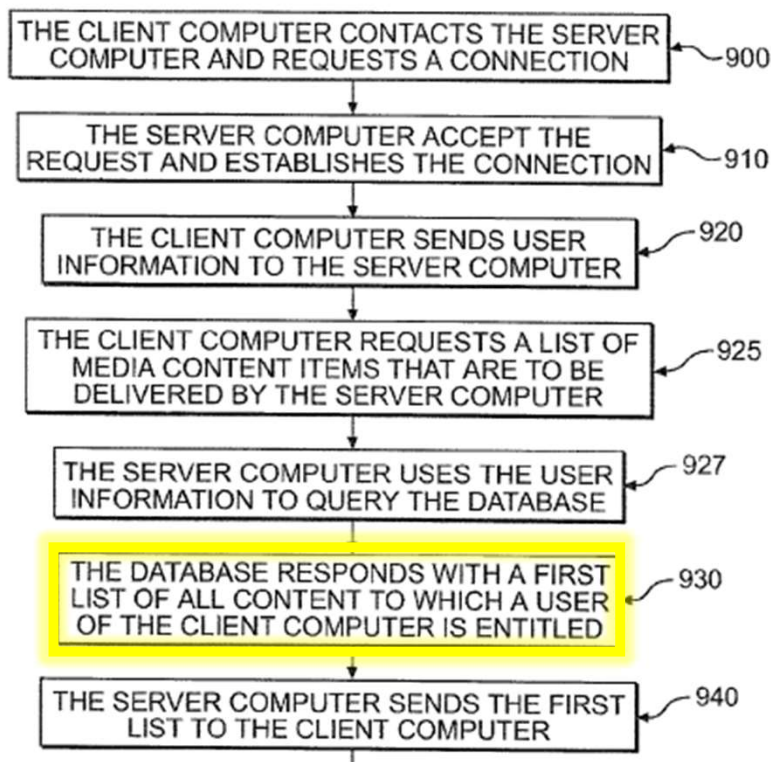


In step 810, the server computer accepts and establishes the connection. Thereafter, in step 820, the client computer sends user information to the server. Thereafter, in step 825, the server computer uses the user information to query the database 640. In step 830, the database responds with a list of all content to which that user is entitled.

EX1004, Cassin, ¶0164, Fig. 8; Paper 16, POR, at 37; Paper 2, Pet., at 23

Cassin Does Not Disclose the Server Status Information Comprises a Listing of at Least One Piece of Content Available From the Source

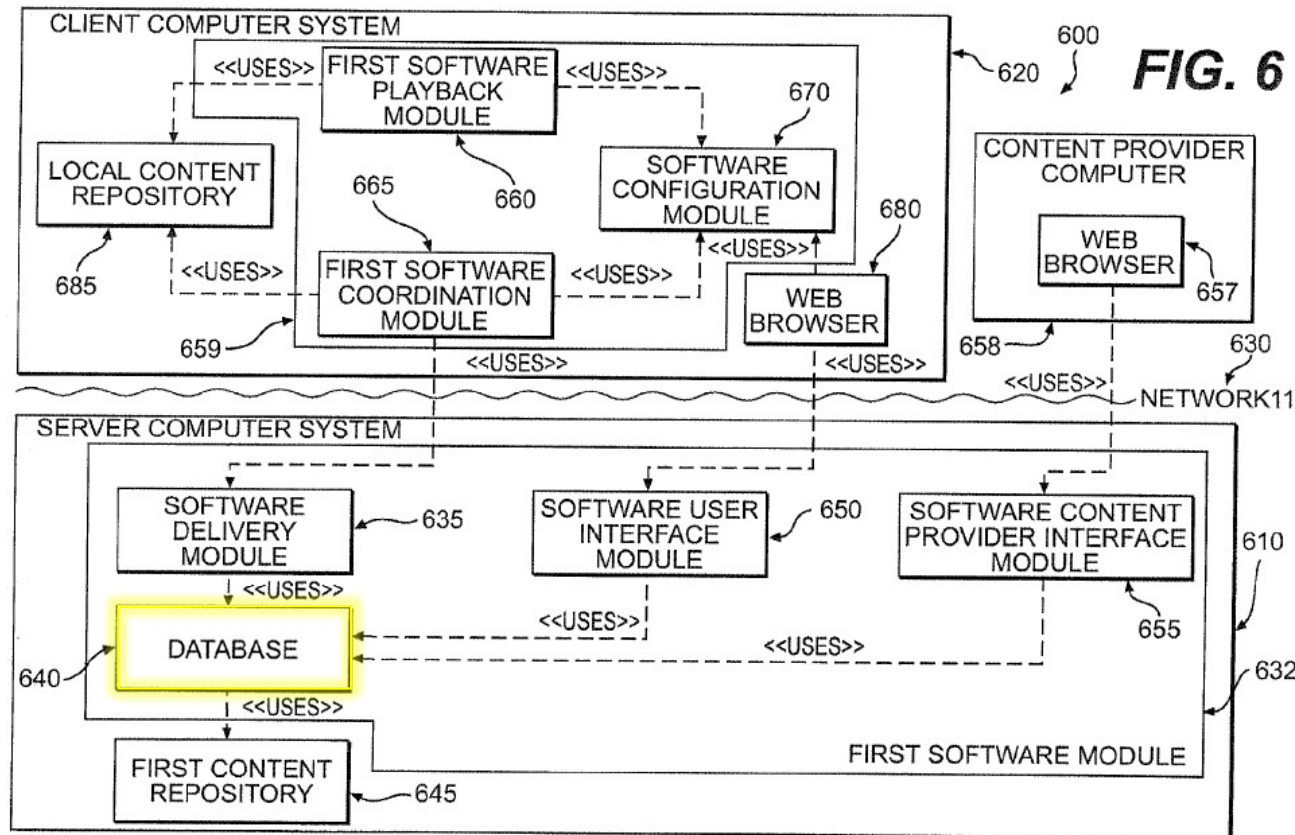
FIG. 9



In step 925, the client computer would request a list of content that should be delivered. In step 927, the server computer uses the user information to query the database 640. In step 930, the database 640 responds with a first list of all content to which that user is entitled, which may be implemented as, for example, XML file.

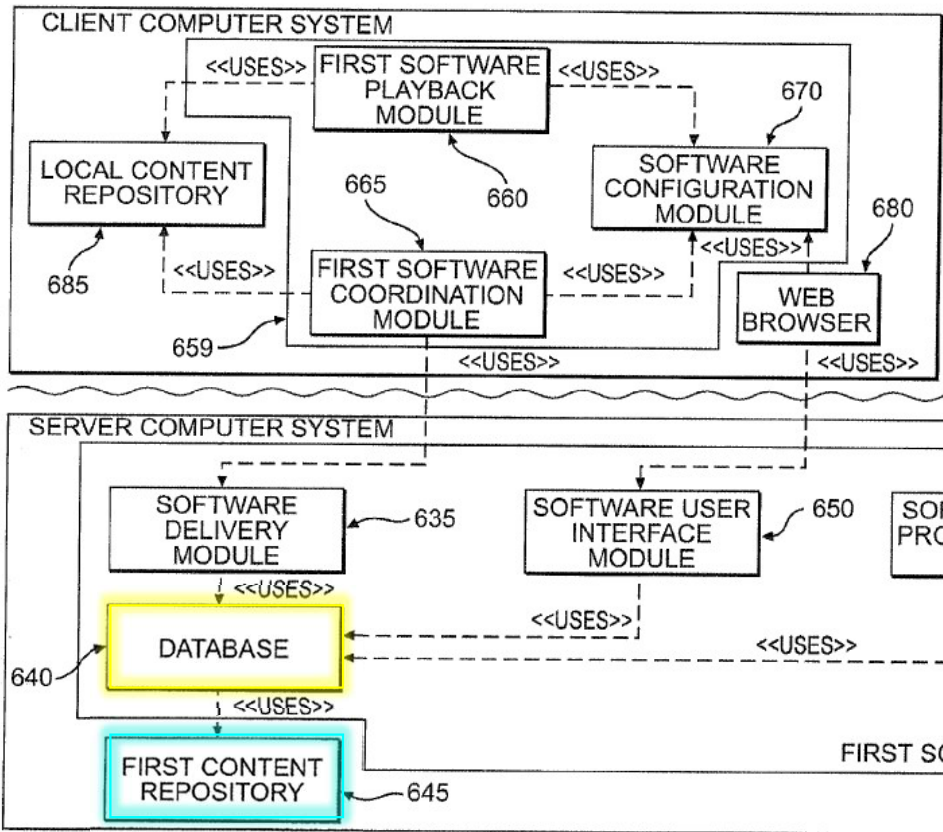
EX1004, Cassin, ¶0166, Fig. 9; Paper 16, POR, at 37; Paper 2, Pet., at 23

Cassin Does Not Disclose the Server Status Information Comprises a Listing of at Least One Piece of Content Available From the Source



EX1004, Cassin, at Fig. 6; Paper 16, POR, at 37; Paper 2, Pet., at 23-24

Cassin Does Not Disclose the Server Status Information Comprises a Listing of at Least One Piece of Content Available From the Source



The database 640 stores information related to the system in the form of metadata. The information must include metadata about the media content available to the system, including for example, descriptions of packages, series and episodes. The information should also include metadata that relates to users of the system. This metadata may include, for example, account information, billing history and statistics. The database need not contain the media files themselves. As an alternative, the media files may be stored within a first content repository 645 associated with the server computer system 610. The contents of the first content repository 645 may be accessible via the database 640.

EX1004, Cassin, at Fig. 6; Paper 16, POR, at 37, 9-10; Paper 2, Pet., at 23-24

EX1004, Cassin, ¶0146; Paper 16, POR, at 36-37; Paper 2, Pet., at 23-24



Cassin Does Not Disclose the Server Status Information Comprises a Listing of at Least One Piece of Content Available From the Source

105. Cassin does not disclose that Database 640 queries the first content repository 645 to identify the content available at first content repository 645 when preparing the list. From this, a POSITA would understand that the availability of the media files may change in first content repository 645. For example, the media files in first content repository 645 may be deleted, corrupted, or otherwise unavailable. Thus, when queried, database 640 will return a list of media content items that the user is entitled to based on the user information and metadata, irrespective of whether the media files are available from first content repository 645. *See id.* In this scenario, the list returned by database 640 will include content that is not available at the source. As such, the list returned by database 640 does not truly indicate the availability of the content from the *source*.

EX2002, Goodrich Decl., ¶105; Paper 16, POR, at 38-39



Cassin Does Not Disclose Each Element of the '559 Patent

Missing Claim Elements	Claims
“a response to the content status [from the network entity]* that instructs the terminal [controller]* to perform one or more actions to thereby control the [a]* flow of content to the terminal based upon the terminal status information”	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
“server status information regarding a source of content, wherein the server status information comprises a listing of at least one piece of content available from the source”	1, 2, 4
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22

*Non-substantive differences in claim 7



Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

“terminal status information comprising a listing of at least one piece of content stored in a [the] memory”

EX2002, '559 patent, at claims 7, 13, 19



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

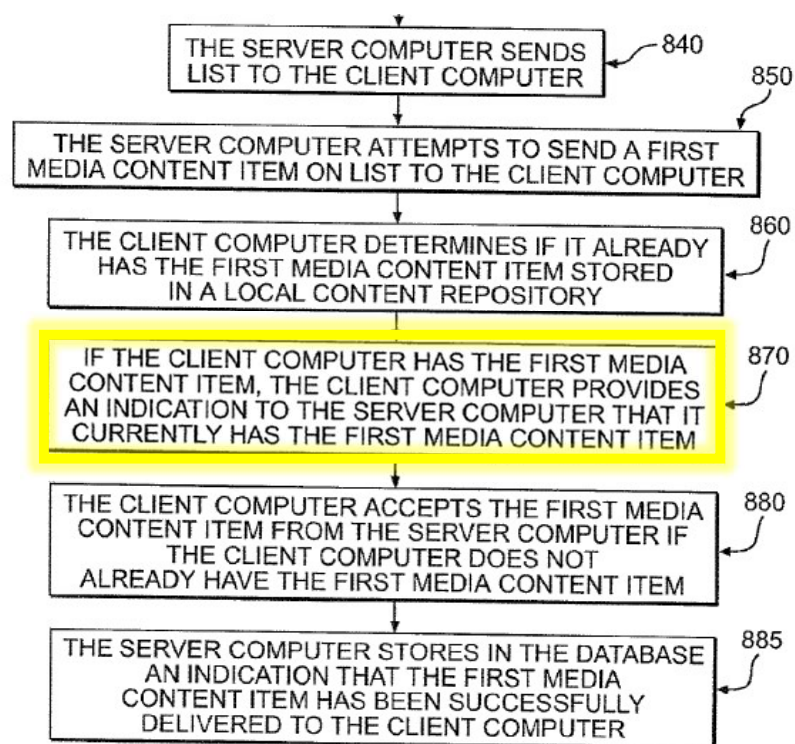


FIG. 8

In step 830, the database responds with a list of all content to which that user is entitled. In step 840, the server computer sends the list to the client. Thereafter, in step 850, the server computer attempts to send a first media content item on the list to the client computer. In step 860, the client computer determines if it already has the media content item stored in the local content repository 685. If the client computer does have the media content item, then in step 870, the client computer provides **an indication to the server computer that it currently has the media content item, such that the server computer will offer the next media item on the list.** If the client computer does not have the media content item, then in step 880, the client computer accepts the media content item from the server computer. Thereafter, steps 850-880 are repeated for each media content item, as necessary.

EX1004, Cassin, ¶0164, Fig. 8; Paper 16, POR, at 39-40



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

120. Regardless, Cassin does not teach or suggest terminal status information comprising a listing of at least one piece of content stored in the memory. A POSITA would understand that for the sake of communication and computing efficiency, the identified “indication” would preferably be the smallest amount of data, such as a simple “yes” or “no,” or equivalent. It would not be obvious to make the “indication” an actual list of content, which would require more data than necessary.

EX2002, Goodrich Decl., ¶120; *see also* ¶110; Paper 16, POR, at 40; Paper 20, Sur-Reply, at 14



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

Q. So in Cassin, the indication can be any sort of data, can be anything, right, as long as it indicates to the server computer that the client computer currently has the media content item?

A. Well, it has to be an indication that informs at least that much.

Q. Okay. And how it accomplishes that, what data it sends, that's not specified in Cassin, right?

A. It certainly isn't in 164. It just says that there's an indication sent.

EX2003, Wechselberger Dep, at 33:15-34:5 (objection omitted); Paper 16, POR, at 40

Q. You don't have an opinion either way whether the indication could just be a message that says denied?

A. No, I don't have an opinion on that.

EX2003, Wechselberger Dep, at 34:21-35:2; Paper 16, POR, at 40



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

information comprising a listing of at least one piece of content.” POR, 40. While Cassin’s specification does not define the parameters of an “indication,” that simply means that the scope of “indication” is broad, and a POSITA would have understood consistent with Cassin what would fall within the scope of that term.

Paper 19, Reply, at 6



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

“In order to anticipate the claimed invention, a prior art reference must disclose all elements of the claim within the four corners of the document, and it must disclose those elements arranged as in the claim;” it otherwise does not anticipate unless “a person of skill in the art, reading the reference, would at once envisage the claimed arrangement or combination.”

Microsoft Corp. v. Biscotti, Inc., 878 F.3d 1052, 1068 (Fed. Cir. 2017)



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

130. A device comprising a processor that controls asynchronous delivery of media content over a communication channel to facilitate playback of the media content through a remote device; wherein said device receives a request for a connection from the remote device, establishes the connection in response to the request, provides the remote device with a first indication that a user of the remote device is entitled to the media content, and receives from the remote device a second indication that the remote device will accept the media content for delivery unless the remote device already has the media content.

132. The device defined in claim 131, wherein the second indication includes a second list of a second group of media content items including at least a second media content item, which is the media content.

133. The device defined in claim 132, wherein the second group of media content items includes a plurality of media content items including at least the second media content item, said second group of media content items being a group of media content items that the remote device will accept for delivery from the device.

EX1004, Cassin, at cls. 130-133;
Paper 16, POR, at 41-42



Ground 1: Obviousness Based on Cassin in View of Huston

Ground	Assertion	Petitioned Claims
1	Anticipation by Cassin	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
2	Obviousness based on Cassin in view of Huston	1-24
3	Obviousness based on Huston	1-24



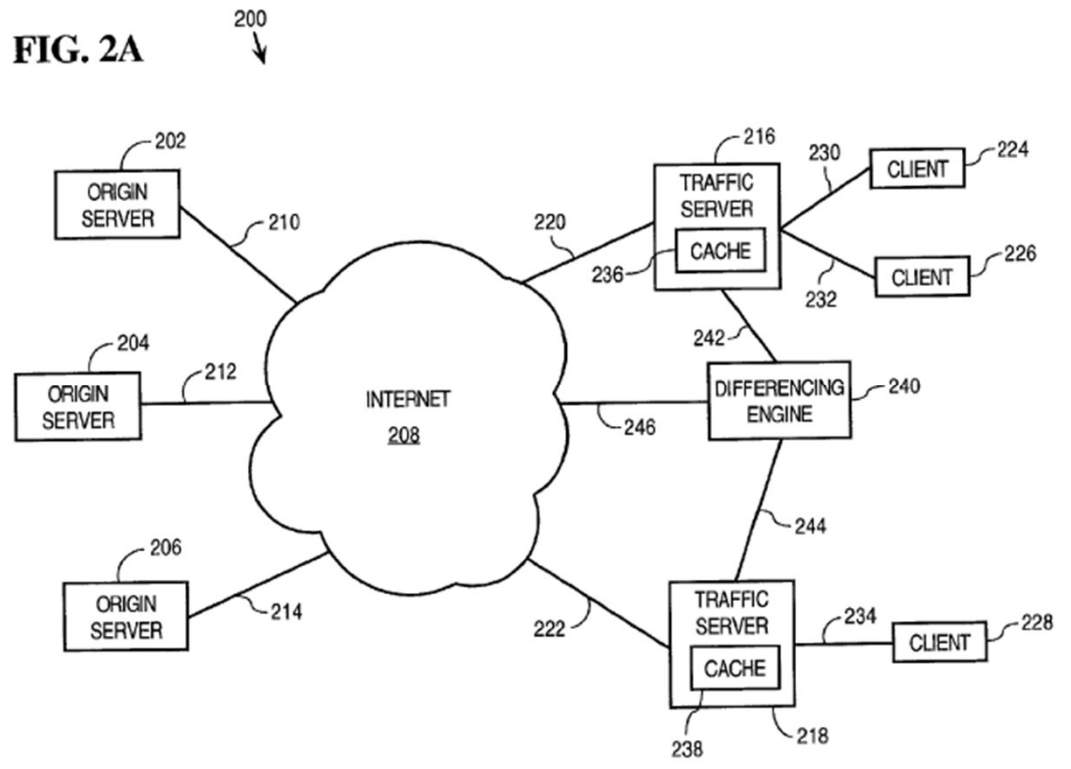
Petitioner Does Not Make Any Additional Arguments for a Number of Elements

No additional anticipation or obviousness analysis or assertions:

- “a response to the content status that instructs the terminal or controller to perform one or more actions to thereby control the flow of content to the terminal based upon the terminal status information” (Paper 16, POR, at 43)
- “server status information that comprises a listing of at least one piece of content available from the source” (Paper 16, POR, at 44)



Huston: Overview



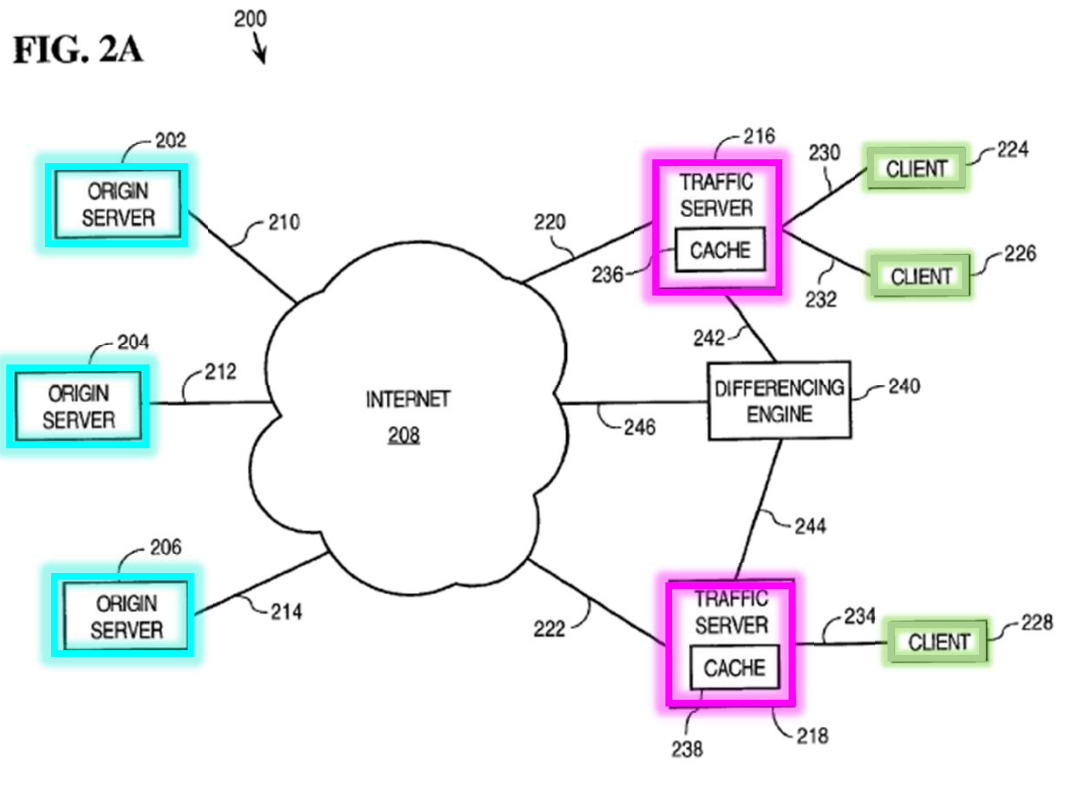
EX1005, Huston, at Fig. 2a; Paper 16, POR, at 15

Content is managed and provided to users over a communications link using a differencing engine. ***The differencing engine is configured to selectively cause content to be refreshed in a cache.*** Specifically, the differencing engine is configured to ***detect whether a more recent version of a data item is available, and if so, delete a current version of the data item from the cache and retrieve and store in the cache the more recent version of the data item.*** Content is selected for refresh based upon a set of one or more selection criteria. The selection criteria may include, for example, the source of content, the size of content, the age of content, the type of content and users to which the content is being provided.

EX1005, Huston, at Abstract; Paper 16, POR, at 15



Huston: Overview



EX1005, Huston, at Fig. 2a; Paper 16, POR, at 15

FIG. 2A is a block diagram of an arrangement 200 for managing and providing content to users over a communications link according to an embodiment of the invention. A set of origin servers 202, 204, 206 host content from one or more content providers (not illustrated).

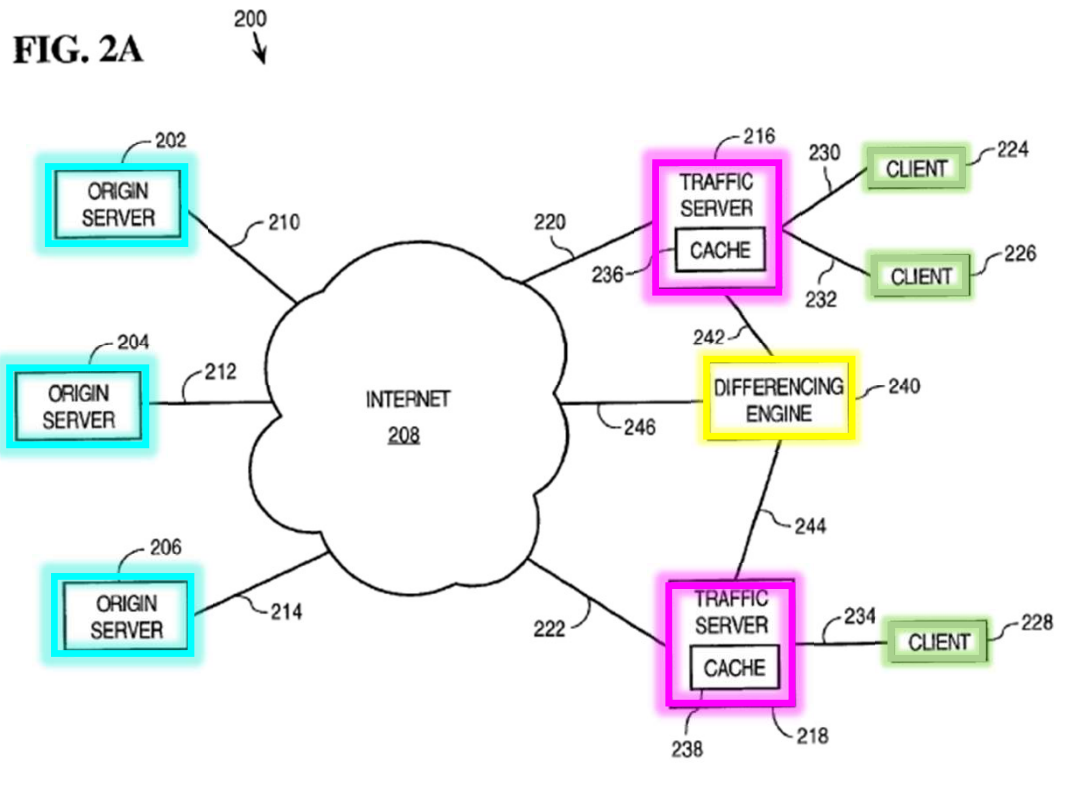
* * *

From the Internet 208, content is provided to traffic servers 216, 218 over communications links 220, 222. Content is provided from traffic servers 216, 218 to clients 224, 226, 228 over communications links 230, 232, 234, respectively.

EX1005, Huston, at 5:41-67; Paper 16, POR, at 15



Huston: Overview



EX1005, Huston, at Fig. 2a; Paper 16, POR, at 15

Arrangement 200 includes a differencing engine 240 that is communicatively coupled to traffic servers 216, 218 via communications links 242, 244, respectively, and to Internet 208 via a communications link 246. According to one embodiment of the invention, *differencing engine 240 is configured to selectively cause content on traffic servers 216, 218 to be refreshed. More specifically, differencing engine 240 is configured to selectively cause content to be deleted from traffic servers 216, 218 and/or replaced with newer versions of the deleted content from origin servers 202, 204, 206.* Traffic servers 216, 218 may initiate the retrieval of replacement content after content is deleted.

EX1005, Huston, at 6:15-32; Paper 16, POR, at 16



Cassin and Huston Do Not Render Obvious Each Element of the '559 Patent

Missing Claim Elements	Claims
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22
“a response to the content status that instructs the terminal to” “delete at least one piece of content from the memory of the terminal based upon the listing of at least one piece of content” from “the memory of the terminal”	2, 3, 5, 8, 9, 11, 14, 15, 17, 20, 21, 23

*Non-substantive differences in claim 7



Cassin and Huston Do Not Render Obvious Each Element of the '559 Patent

Missing Claim Elements	Claims
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22
“a response to the content status that instructs the terminal to” “delete at least one piece of content from the memory of the terminal based upon the listing of at least one piece of content” from “the memory of the terminal”	2, 3, 5, 8, 9, 11, 14, 15, 17, 20, 21, 23

*Non-substantive differences in claim 7



Cassin Does Not Disclose Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

“To draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge, is to use the invention as a template for its own reconstruction—an illogical and inappropriate process by which to determine patentability.

* * *

The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made.”

Sensonics Inc. v. Aerosonic Corp., 81 F.3d 1566, 1570 (Fed. Cir. 1996)



Cassin and Huston Do Not Render Obvious Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

Q. My question is just that Huston does not disclose that the differencing engine gets the information of what's in the traffic server by requesting it from the traffic server, right?

A. It's not explicitly disclosed in Huston, but it is my opinion it would be obvious to do that using the direct coupling.

EX2003, Wechselberger Dep, at 53:19-54:5 (objection omitted); Paper 20, Sur-Reply, at 17



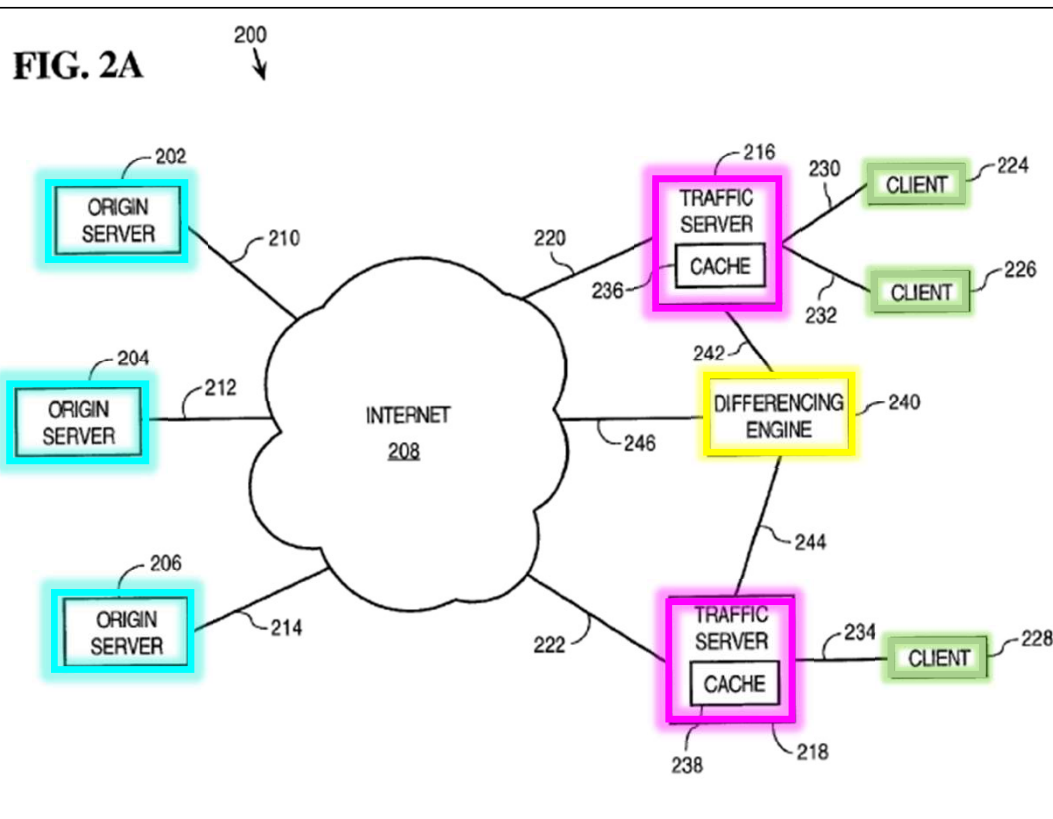
Cassin and Huston Do Not Render Obvious Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

on the origin servers 202, 204, 206. Ex. 1005, 6:42-51, Fig. 2A. In order to compare the versions of content, a POSITA would have understood that the differencing engine 240 would receive an identification of the versions of the content stored on the caches 236, 238 (“content status including terminal status information”) from the traffic servers 216, 218 (“terminals”), which are “remote” from the differencing engine 240 (“network entity”). See Ex. 1005, Fig. 2A. The

Paper 2, Pet. at 39



Cassin and Huston Do Not Render Obvious Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory



For example, according to one embodiment of the invention, differencing engine 240 is co-located with, or at least communicatively coupled to, origin servers 202, 204, 206. In this situation, differencing engine 240 interacts directly with origin servers 202, 204, 206 to determine when new content is available and to “push” the new content to traffic servers 216, 218.

EX1005, Huston, at 7:43-49; Paper 16, POR, at 16

EX1005, Huston, at Fig. 2a; Paper 16, POR, at 15

Cassin and Huston Do Not Render Obvious Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

from the differencing engine 240 (“network entity”). *See* Ex. 1005, Fig. 2A. The differencing engine 240 may be co-located with the origin servers 202, 204, 206. Ex. 1005, 7:38-49.

Paper 2, Pet., at 39-40

16:43-56. The differencing engine 240 may be co-located with the origin servers 202, 204, 206, and includes a processor 404. Ex. 1005, 7:38-49, 16:12-29.

Paper 2, Pet., at 52



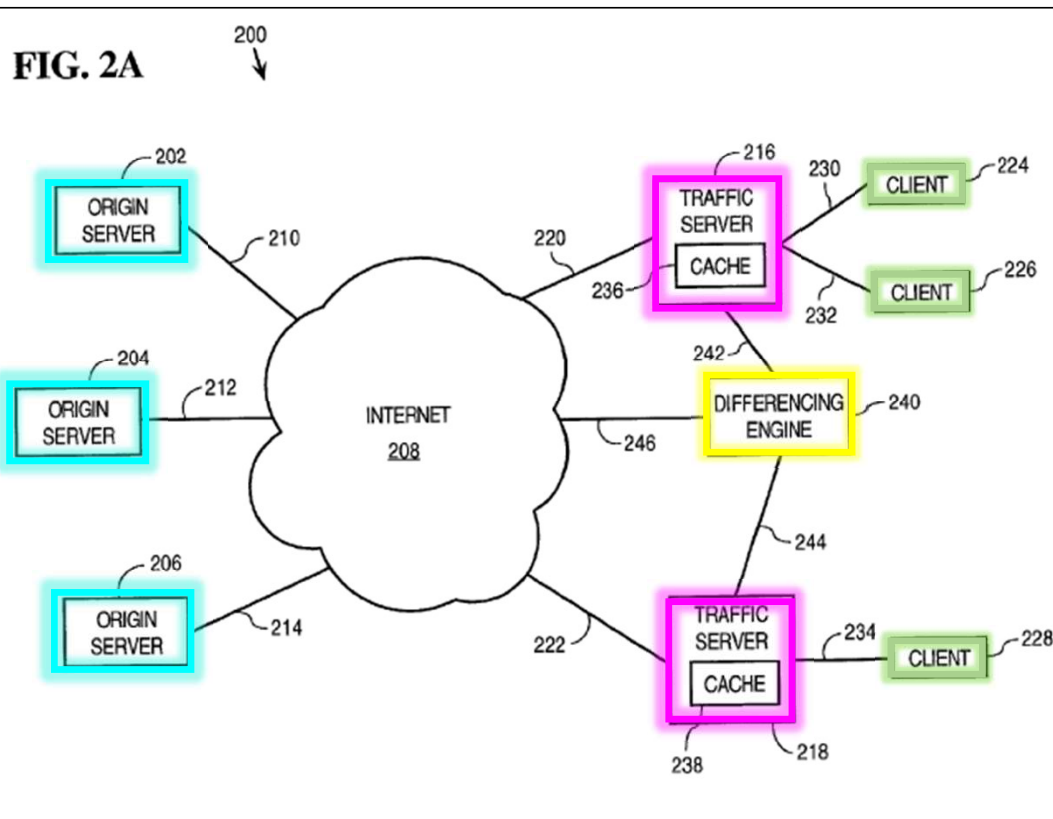
Cassin and Huston Do Not Render Obvious Each Element of the '559 Patent

Missing Claim Elements	Claims
“terminal status information comprising a listing of at least one piece of content stored in a [the]* memory”	7, 8, 10, 13, 14, 16, 19, 20, 22”
“a response to the content status that instructs the terminal to” “delete at least one piece of content from the memory of the terminal based upon the listing of at least one piece of content” from “the memory of the terminal”	2, 3, 5, 8, 9, 11, 14, 15, 17, 20, 21, 23

*Non-substantive differences in claim 7



Cassin and Huston Do Not Render Obvious “a Response to the Content Status That Instructs the Terminal to” “Delete at Least One Piece of Content”



EX1005, Huston, at Fig. 2a; Paper 16, POR, at 15

Deleting content from traffic servers 216, 218 may be performed using a variety of techniques and the invention is not limited to any particular technique. According to one embodiment of the invention, differencing engine 240 causes content to be deleted from traffic servers 216, 218 by issuing one or more ‘delete’ commands to traffic servers. For example, in the context of the HTTP protocol, differencing engine 240 issues an “HTTP DELETE” command to traffic servers 216, 218 to cause content to be deleted.

EX1005, Huston, at 6:33-41; Paper 2, Pet., at 44



Cassin and Huston Do Not Render Obvious “a Response to the Content Status That Instructs the Terminal to” “Delete at Least One Piece of Content”

The selection of content to be deleted from traffic servers 216, 218 may be determined according to a variety of selection criteria. *According to one embodiment of the invention, differencing engine 240 selects content to be deleted by comparing versions of content stored on caches 236, 238 to versions of the corresponding content stored on origin servers 202, 204, 206.* Versions of content on caches 236, 238 that are older than versions of the corresponding content on origin servers 202, 204, 206 are selected for deletion.

EX1005, Huston, at 6:42-51; Paper 2, Pet., at 44

Differencing engine 240 may use a variety of techniques to determine differences between content stored on traffic servers 216, 218 and origin servers 202, 204, 206. For example, differencing engine 240 may request from origin servers 202, 204, 206 information about versions of data stored on origin servers 202, 204, 206 that are also stored on traffic server 216, 218. As another example, differencing engine 240 may negotiate with origin servers 202, 204, 206 to periodically receive information about versions of data stored on origin servers 202, 204, 206 that is also stored on traffic servers 216, 218.

EX1005, Huston, at 6:66-7:9 Paper 20, Sur-Reply, at 19



Cassin and Huston Do Not Render Obvious “a Response to the Content Status That Instructs the Terminal to” “Delete at Least One Piece of Content”

According to one embodiment of the invention, prefetched content is automatically deleted from a cache after the expiration of a specified period of time during which no user requests for the content are received.

EX1005, Huston, at 11:33–36; Paper 20, Sur-Reply, at 19

Preferential treatment may be used to specify whether certain objects can be deleted at all, a minimum amount of time that an object must remain in a cache before being deleted, or a relative priority to establish an order in which objects are deleted from a cache, when necessary.

EX1005, Huston, at 12:62–67; Paper 20, Sur-Reply, at 19



A POSITA Would Not Be Motivated to Combine Cassin With Huston's Commands

“We have held that where a party argues a skilled artisan would have been motivated to combine references, it must show the artisan ‘would have had a reasonable expectation of success from doing so.’” Thus, if an ordinarily skilled artisan would not believe that a particular combination would have a reasonable expectation of ‘anticipated success,’ the combination may not be obvious.”

Arctic Cat Inc. v. Bombardier Recreational Prod. Inc., 876 F.3d 1350, 1360 (Fed. Cir. 2017)
(quoting *In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.*, 676 F.3d 1063, 1068-69 (Fed. Cir. 2012).



A POSITA Would Not Be Motivated to Combine Cassin With Huston's Commands

(54) **DEVICES, METHODS AND A SYSTEM FOR IMPLEMENTING A MEDIA CONTENT DELIVERY AND PLAYBACK SCHEME**

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Publication Classification

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(52) U.S. Cl. **704/201**

(57) **ABSTRACT**

Devices, methods and a system are provided for implementing a media content delivery and playback scheme, in which media content is delivered asynchronously via a communication channel to facilitate playback of the media content via a remote device.

EX1004, Cassin, at Title and Abstract; Paper 16, POR, at 50



A POSITA Would Not Be Motivated to Combine Cassin With Huston's Commands

130. Additionally, Mr. Wechselberger does not explain how Huston's disclosure would be combined with Cassin. Indeed, Cassin only describes the server computer as being able to send lists of content and content. See EX1004, ¶¶0164, 0166. There is no mechanism in Cassin to be able to send instructions to the client computer, and thus a POSITA would not have a reasonable expectation of success in combining Cassin and Huston. Furthermore, a POSITA would understand that in Cassin, the server only checks whether a terminal already has a piece of content in order to ensure that duplicative content is not sent. See EX1004, ¶0164. The purpose is not that the server controls what content is stored at the terminal, only that it provides non-duplicative content. And since Cassin is directed only to a "Playback Scheme," (id., Title), there would be no motivation to allow the server computer to delete content from the client computer.

EX2002, Goodrich Decl., ¶130; Paper 16, POR, at 50-51



Ground 1: Obviousness Based on Cassin in View of Huston

Ground	Assertion	Petitioned Claims
1	Anticipation by Cassin	1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20, 22
2	Obviousness based on Cassin in view of Huston	1-24
3	Obviousness based on Huston	1-24



Huston Does Not Render Obvious Terminal Status Information Comprising a Listing of at Least One Piece of Content Stored in a Memory

The Petition re-hashes its Huston arguments

One way in which the differencing engine 240 controls the flow of content on traffic servers 216, 218 is by selecting content to be deleted. Ex. 1005, 6:42-48. Differencing engine 240 compares the versions of content stored on caches 236, 238 on the traffic servers 216, 218 with the versions of the corresponding content stored on the origin servers 202, 204, 206. *Id.*; *see also id.* Fig. 2A. In order to compare the versions of content, a POSITA would have understood that the differencing engine would receive a communication from the traffic servers identifying the versions of the content stored on the caches 236, 238. A POSITA would have understood that this communication would include a listing of at least one piece of content stored in the traffic servers, which is “a content status including terminal status information comprising a listing of at least one piece of content stored in memory” from the traffic servers 216, 218 and compare it with information received from the origin servers (“server status information regarding a source of content”).

Paper 2, Pet., at 53-54.



Huston Does Not Render Obvious “a Response to the Content Status That Instructs . . .”

The Petition re-hashes its Huston arguments

The differencing engine 240 “causes content to be deleted from the traffic servers 216, 218 by issuing one or more ‘delete’ commands to traffic servers” (*i.e.*, “one or more actions”) to thereby “control the flow of content” to the traffic servers 216, 218 based upon the “terminal status information” and “server status information” Ex. 1005, Fig. 2A, 1:35-42, 6:33-7:9, 6:33-41; *see also* Section VII.C.2. The differencing engine 240 therefore “instructs the terminal to perform one or more actions to thereby control the flow of content to the terminal based upon the terminal status information and the serve status information.”

Paper 2, Pet., at 54.

