

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.; INSTAGRAM, INC.; WHATSAPP LLC; META
PLATFORMS TECHNOLOGIES, LLC; AND GIPHY, INC.

Petitioners

v.

VL COLLECTIVE IP LLC

Patent Owner

U.S. Patent No. 7,266,682

Case IPR2023-00923

Petitioners' Reply to Patent Owner's Preliminary Response

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*Internal citations omitted.

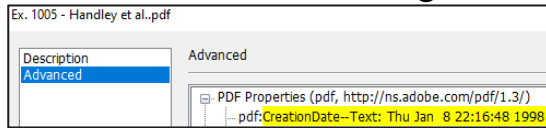
The POPR (Paper 11) provides no evidence that *Handley* or *PacketCable* were published any later than the dates evidenced in the Petition (Paper 3). Instead, it argues that Petitioners' evidence is insufficient as a matter of law to meet the reasonable likelihood standard. The POPR is wrong for the reasons detailed herein.

I. The Petition Demonstrates *Handley's* Public Accessibility Per *Hulu*

First, the Petition and Dr. Houh, a sworn declarant with personal knowledge, detailed *Handley's* publication in COMPUTER NETWORKS, a publicly disseminated commercial journal by a well-known publisher (Elsevier), on February 11, 1999, corresponding to Volume 31, Issue 3 at pages 191-204. Pet. at 4; EX1003 at 27; *Unified Patents v. Sound View*, IPR2018-00599, Paper 11 at 22-25 (PTAB Sept. 10, 2018) (reasonable likelihood of public accessibility established by expert declaration). The Board routinely accepts COMPUTER NETWORKS' articles. *Resideo Tech. v. Ubiquitous Connectivity*, IPR2019-01336, Paper 7 at 7, 45, 63 (PTAB Jan. 27, 2020); *Cloudflare v. Blackbird Tech.*, IPR2018-00804, Paper 8 at 3, 21 (PTAB Oct. 3, 2018). The POPR does not challenge its status as an established periodical. *VidStream v. Twitter*, 981 F.3d 1060, 1065-67 (Fed. Cir. 2020) ("presumption of public accessibility" for established publishers); *Bruckelmyer v. Ground Heaters*, 445 F.3d 1374, 1378 (Fed. Cir. 2006) (a reference is publicly accessible if disseminated or made available to a POSITA exercising reasonable diligence).¹

¹ Diligence would also lead to the publisher and first author sites: <https://www.scie>

Second, a POSITA exercising reasonable diligence would also have located *Handley* online, as Houh did, at the URL provided. *See* Pet. at iv and EX1003 at iii, citing <https://www.cl.cam.ac.uk/~jac22/otalks/cnisdn-article.pdf> (“URL”).² The URL includes metadata demonstrating “cnisdn-article.pdf” was created on January 8, 1998.



This information may be accessed

in EX1005 via File > Properties > Additional Metadata > Advanced > PDF Properties, as a POSITA would have known. The URL path stems from co-author Crowcroft’s Cambridge website. This website links to Crowcroft’s UCL website, which lists a publicly available and indexed FTP server³ with directory hosting technical papers (below, left).⁴ Notably, a POSITA viewing the “ftp server” link on nicedirect.com/science/article/abs/pii/S0169755298002621?via%3Dihub; <https://web.archive.org/web/19981206225320/http://north.east.isi.edu:80/~mjh/papers.html>.

² “CNISDN,” as named by *Handley* co-author Jon Crowcroft and known to a POSITA, means “Computer Networks and ISDN Systems,” the former name of Elsevier’s COMPUTER NETWORKS journal from January 1976 to December 1998.

³ <https://www.cl.cam.ac.uk/~jac22/>; click “PPP: Papers,” under “Before 2001,” click “1981-2001,” under “Internet General,” click, *e.g.*, “talk about the TACK TCP,” click “Home Page: <http://www.cs.ucl.ac.uk/staff/jon>”; (index) <https://web.archive.org/web/20000816095229/http://www.ucl.ac.uk/search/compass/>.

⁴ <http://www.cs.ucl.ac.uk/staff/jon>; click “81-2001,” under “cv,” click “ftp server”.

the Internet Archive would have found that an article sharing the same title (cnisdn-article.ps.gz) was “Last modified” on January 9, 1998 (below, right).⁵

A lot of papers are on our [ftp server](#).

 [GZIP] [cnisdn-article.ps.gz](#) 09-Jan-98 14:07 42K

II. The Petition Establishes *PacketCable* Qualifies As Prior Art

PacketCable includes reliable indicia on its face (*i.e.*, copyright, dated revision history/release, date, and consecutive footer date stamps) and bears no suggestion that it was not intended for public distribution (EX1007 at 1-3).⁶ *Nobel Biocare Servs. v. Instradent USA*, 903 F.3d 1365, 1377 (Fed. Cir. 2018). “[I]ndicia on the face...are considered part of the totality of the evidence.” *Edwards Lifesci. Corp. v. Aortic Innovations*, IPR2021-01584, Paper 15 at 30-31 (PTAB April 1, 2022). A standard’s purpose is to be adopted, thus inferring public accessibility.⁷

⁵ <https://web.archive.org/web/20010217183731/http://www.cs.ucl.ac.uk/darpa>.

POSITAs routinely visited UCL FTP servers as an early Darpa-funded institution.

⁶ Reasonably diligent POSITAs would confirm with CableLabs: <https://www.cablelabs.com/specifications/packetcable-1-0-architecture-framework-technical-report>.

⁷ As further support for §§I-II *supra*, see *Ericsson v. IV I*, IPR2014-00527, Paper 41 at 10-11 (PTAB May 18, 2015) (admitting document with copyright as publication evidence pursuant to FRE 803(17)); *Samsung v. IXI IP*, IPR2015-01443, Paper 27 at 37 (PTAB Dec. 21, 2016) (finding a declarant’s attestation to date information of an exhibit credible for the referenced periodical under FRE 803(18)).

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Respectfully submitted,

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CERTIFICATE OF SERVICE

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