

From: Daniel Yannuzzi <dyannuzzi@sheppardmullin.com>

Sent: Monday, August 28, 2023 7:04 PM

To: Trials@USPTO.GOV

Cc: Darren Franklin <DFranklin@sheppardmullin.com>; Michael Hopkins

<MHopkins@sheppardmullin.com>; Mark Catanese <MCatanese@sheppardmullin.com>; Williams, Eliot

D. <Eliot.Williams@BakerBotts.com>; Maier, Robert L. <Robert.Maier@BakerBotts.com>;

kdorsney@morrisjames.com; chitch@morrisjames.com; Tempesta, Jennifer C.

<jennifer.tempesta@bakerbotts.com>; Knierim, Michael <michael.knierim@bakerbotts.com>; Palmieri,

Nick <nick.palmieri@bakerbotts.com>

Subject: IPR No. 2023-01239 Request for authorization to correct clerical and/or typographical mistakes without changing the filing date under 37 C.F.R. § 42.104(c)

[EXTERNAL EMAIL]

Dear Honorable Board:

Pursuant to 37 C.F.R. § 42.104(c), Petitioner Peloton Interactive, Inc. respectfully requests authorization to correct clerical and/or typographical mistakes in a petition for *inter partes* review without changing the filing date of the petition. Specifically, Petitioner has found certain clerical and/or typographical mistakes in its petition for *inter partes* review filed in IPR2023-01239 and seeks to file revised papers correcting these mistakes under 37 C.F.R. § 42.104(c).

The exhibit lists of the petition and the Declaration of Clifford Reader Ph.D. (EX1006 and EX1037) (collectively, the "Declaration") incorrectly refer to EX1016 as U.S. Patent No. 5,867,230 to Wang et al. ("Wang '230") instead of U.S. Patent No. 7,606,928 to Wang et al. ("Wang '928") and failed to list Wang '230 as EX1038. Additionally, Wang '230 was incorrectly filed as EX1016 instead of Wang '928. Petitioner seeks to correct these mistakes in the exhibit lists of the petition and Declaration, and to correct one additional reference to the incorrect exhibit in the petition and two references to the incorrect exhibit in the Declaration. Petitioner also seeks to upload a copy of Wang '928 as EX1016 and re-upload a copy of Wang '230, this time as EX1038.

Petitioner first raised this issue with Patent Owner in a letter dated August 21, 2023 and subsequently discussed these corrections with Patent Owner in a meet and confer held on August 28, 2023. Patent Owner opposes Petitioner's request.

For the convenience of the Board, I attach redline sheets showing the corrections, which Petitioner previously shared with Patent Owner's counsel. Petitioner sought and received permission to include these attachments from the PTAB's Sr. Paralegal on August 28, 2023.

If needed, the parties are available for a conference call with the Board on the following dates:

- August 30 from 3 p.m. to 5 p.m. Eastern;
- September 1 from noon to 2 p.m. Eastern, and from 3:30 p.m. to 5 p.m. Eastern; and
- September 5 from 3 p.m. to 4 p.m. Eastern.

Sincerely,

Daniel Yannuzzi
Registration No. 36,727

Daniel N. Yannuzzi
+1 858-720-8924 | direct
dyannuzzi@sheppardmullin.com | [Bio](#)

SheppardMullin
12275 El Camino Real, Suite 100
San Diego, CA 92130-4092
+1 858-720-8900 | main
www.sheppardmullin.com | [LinkedIn](#) | [Twitter](#)

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Corrections to Petition in IPR2023-01239

EXHIBIT LIST

Exhibit No.	Description
EX1001	U.S. Patent No. 8,752,101 B2 (“the ’101 patent”)
EX1002	File History of U.S. Patent No. 8,752,101 B2 (U.S. Application No. 13/508,025) (“’101 FH”)
EX1003	Lee, Chiang, and Zhang, <i>Scalable Rate Control For MPEG-4 Video</i> , IEEE Transactions on Circuits and Systems for Video Technology, Vol. 10, No. 6, pp. 878 – 894, September 2000
EX1004	U.S. Publication No. US 2006/0143678 A1 (“Chou”)
EX1005	File History of corresponding European Patent No. 2498492
EX1006 ¹	SEALED Dr. Clifford Reader Declaration (“Reader Declaration”)
EX1007	International Publication No. WO 2006/108435 (“Kampmann”)
EX1008	Japanese Unexamined Patent Application Publication No. 2005-191786
EX1009	Japanese Unexamined Patent Application Publication No. 2007-13705
EX1010	U.S. Patent No. 8,909,809 (the ’809 patent”)
EX1011	Japanese Unexamined Patent Application Publication No. 2004-172830
EX1012	Certified English Translation of Japanese Unexamined Patent Application Publication No. 2004-172830
EX1013	Certified English Translation of Japanese Unexamined Patent Application Publication No. 2005-191786
EX1014	Certified English Translation of Japanese Unexamined Patent Application Publication No. 2007-13705
EX1015	Kozamernik, <i>Webcasting - The Broadcasters’ Perspective</i> , EBU Technical Review, March 2000 (“Kozamernik”)
EX1016	U.S. Patent No. ~~5,867,230~~ 7,606,928 (“Wang”)
EX1017	U.S. Patent No. US 6,637,031 B1 (“Chou ’031”)
EX1018	Cen, Pu, and Walpole, <i>Flow And Congestion Control for Internet Streaming Applications</i> , Multimedia Computing and Networking 1998
EX1019	Lu, <i>Signal Processing for Internet Video Streaming: A Review</i> , Proceedings of SPIE, Volume 3947, p. 246-259, January 2000 (“Lu”)

¹ A redacted, public version of the Reader Declaration is provided as EX1037.

Exhibit No.	Description
EX1020	Haskell, Puri, and Netravali, <i>Digital Video: An Introduction to MPEG-2</i> , chapter 8, pp. 156-182 (“Haskell”)
EX1021	ITU H.262 (07/95)
EX1022	Ebrahimi, <i>MPEG-4 natural video coding – An overview</i> , Signal Processing: Image Communication, V.15 Iss. 4-5, Jan. 2000, pp. 365-385 (“Ebrahimi”)
EX1023	ITU H.261 (03/93)
EX1024	ITU H.222.0 (07/95)
EX1025	Rui, <i>An Overview of MPEG-2</i> , The 1997 Digital Video Test Symposium
EX1026	Huang, Chou, Klemets, <i>Optimal Coding Rate Control for Scalable Streaming Media</i> (“Huang”)
EX1027	U.S. Publication No. US 2004/0128396 A1 (“Patrick”)
EX1028	U.S. Patent No. US 7,711,841 B2 (“Desphande”)
EX1029	van Beek and Demircin, <i>Delay-Constrained Rate Adaptation for Robust Video Transmission Over Home Networks</i> , IEEE International Conference, V.2, (“van Beek”)
EX1030	U.S. Patent No. 5,822,524 (“Chen”)
EX1031	SEALED NEC’s Infringement Contentions served in <i>NEC Corp. v. Peloton Interactive, Inc.</i> , No. 1:22-cv-00987-CFC (U.S. District Court, District of Delaware, filed July 28, 2022)
EX1032	Reader C., “Intraframe and Interframe Adaptive Transform Coding”, SPIE Vol. 66, 1975
EX1033	Reader C, “MPEG4: Coding for Content, Interactivity, and Universal Accessibility”, Optical Engineering, Vol. 35, No. 1, pp. 104-108, Jan 1996
EX1034	“MPEG Video Compression Standard”, Edited by J. L. Mitchell et al, Chapter 16, “MPEG Patents”, pp.357-362
EX1035	Proposal and Consideration of Buffer Size, NTT, KDD, NEC, Fujitsu, CCITT SG IV Working Party XV/1 Specialist Group on coding for Visual Telephony, Document #287, January 1988
EX1036	Scheduling Order filed on March 20, 2023 in <i>NEC Corp. v. Peloton Interactive, Inc.</i> , No. 1:22-cv-00987-CFC (U.S. District Court, District of Delaware, filed July 28, 2022)
EX1037	REDACTED PUBLIC version of Reader Declaration
EX1038	U.S. Patent No. 5,867,230

VII. BACKGROUND

Streaming content from a server to a receiver, and buffering the content to maintain playback quality, was well known before the '101 patent. EX1004, ¶¶0004-0005; EX1006, ¶41. Buffering before decoding and playback was used to ensure changing network conditions did not prevent a good streaming experience. EX1006, ¶41. Changing the code rate of transmitted content data to control the buffer was also well known before the '101 patent. EX1004, ¶0031. EX1006, ¶¶41, 28-58, 70-77.

A. Steaming over the Internet

The growth of the internet in the 1990s led to an increase in streaming media. *See* EX1015. Streaming arose as an alternative to the “download-first-and-then play” technique. EX10~~38~~46, 1:38-49. For streaming, “audiovisual data is packetized, delivered over a network, and played as the packets are being received....” EX1017, 2:9-13; EX1006, ¶¶42-43. By the late 1990s, media streaming “account[ed] for a significant, and expanding, portion of the Internet traffic.” EX1018, 250.

B. Video Coding Standards

To overcome bandwidth constraints, content data is compressed before transmission, which the recipient decompresses into the original form. EX1006, ¶42. By 2000, several standards for compression existed, including: MPEG-

Corrections to Reader Declaration in IPR2023-01239

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EX1008	Japanese Unexamined Patent Application Publication No. 2005-191786
EX1009	Japanese Unexamined Patent Application Publication No. 2007-13705
EX1010	U.S. Patent No. 8,909,809 (the '809 patent")
EX1011	Japanese Unexamined Patent Application Publication No. 2004-172830
EX1012	Certified English Translation of Japanese Unexamined Patent Application Publication No. 2004-172830
EX1013	Certified English Translation of Japanese Unexamined Patent Application Publication No. 2005-191786
EX1014	Certified English Translation of Japanese Unexamined Patent Application Publication No. 2007-13705
EX1015	Kozamernik, <i>Webcasting - The Broadcasters' Perspective</i> , EBU Technical Review, March 2000 ("Kozamernik")
EX1016	U.S. Patent No. 5,867,230 , 7,606,928 ("Wang")
EX1017	U.S. Patent No. US 6,637,031 B1 ("Chou '031")
EX1018	Cen, Pu, and Walpole, <i>Flow And Congestion Control for Internet Streaming Applications</i> , Multimedia Computing and Networking 1998
EX1019	Lu, <i>Signal Processing for Internet Video Streaming: A Review</i> , Proceedings of SPIE, Volume 3947, p. 246-259, January 2000 ("Lu")
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EX1021	ITU H.262 (07/95)
EX1022	Ebrahimi, <i>MPEG-4 natural video coding – An overview</i> , Signal Processing: Image Communication, V.15 Iss. 4-5, Jan. 2000, pp. 365-385 ("Ebrahimi")
EX1023	ITU H.261 (03/93)
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EX1032	Reader C., “Intraframe and Interframe Adaptive Transform Coding”, SPIE Vol. 66, 1975
EX1033	Reader C, "MPEG4: Coding for Content, Interactivity, and Universal Accessibility", Optical Engineering, Vol. 35, No. 1, pp. 104-108, Jan 1996
EX1034	“MPEG Video Compression Standard”, Edited by J. L. Mitchell et al, Chapter 16, “MPEG Patents”, pp.357-362
EX1035	Proposal and Consideration of Buffer Size, NTT, KDD, NEC, Fujitsu, CCITT SG IV Working Party XV/1 Specialist Group on coding for Visual Telephony, Document #287, January 1988
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EX1037	REDACTED PUBLIC version of Reader Declaration
EX1038	U.S. Patent No. 5,867,230

4. I understand that the ’101 patent issued from U.S. Patent Application No. 13/508,025, filed on May 3, 2012. I also understand that the application was a national-stage filing of Patent Cooperation Treaty Application No. PCT/JP2010/006067, filed on October 13, 2010, and claimed priority to Japanese Patent Application No. JP2009-253581, filed on November 5, 2009. I have been asked to treat November 5, 2009 as the effective filing date of the ’101 patent.

patent. EX1004, ¶¶0004-0005. Buffering content at the receiver before decoding and playback was commonly used to adapt to changing network conditions to provide a good streaming media system that will exhibit the following behavior: content played on demand will: start with low delay; once started, play continuously (without stalling) unless interrupted by the user; and play with the highest possible quality given the average communication bandwidth available. *Id.* Transmitting content data coded with one of a plurality of different code rates, and changing the code rate of the content data to be transmitted to a determined code rate, was also well known before the '101 patent. EX1004, ¶0031. It was well known that controlling the coding bit rate of streaming media provides, for example, fast startup, continuous playback, and maximal quality and smoothness over the entire streaming session. EX1004, ¶0002.

42. The growth of the internet in the 1990s led to an increase in streaming media. *See* EX1015. Streaming arose as an alternative to the “download-first-and-then play” technique, which requires a client device to download a file in its entirety and then begin playing the file only after the entire file has been downloaded onto the client device. (E.g., EX103816, 1:38-49.) Conversely, for streaming, “audiovisual data is packetized, delivered over a network, and played as the packets are being received at the receiving end, as opposed to being played only after all the packets have been downloaded.” EX1017, 2:9-13. Thus, streaming allows users to

code rate. Specifically, *Chou* states that “[t]he client employs the encoder buffer parameters and the upper bound gap values to determine on a frame-by-frame basis the coding bit rate that will reduce a difference between the estimated latest anticipated arrival time of a frame under consideration and a prescribed target arrival time of that frame, *in order to keep the client buffer at approximately the desired duration level.*” EX1004, ¶25 (emphasis added). *Chou* further teaches that “[i]f the current coding bit rate is below the arrival rate, and the client buffer duration begins to increase above its target level, then the coding bit rate can be switched up to a new coding bit rate above the arrival rate only if the new coding bit rate is below the conservative limit.” EX1004, ¶123.

96. *Chou* also teaches to start reproduction of the content at the set reproduction time (client time). EX1004, ¶59.

B. US7606928 (“Wang”)

97. I understand that *Wang* (U.S. [5,867,230](#), [7,606,928](#); filed March 21, 2003; published September 23, 2004; issued October 20, 2009) is prior art under pre-AIA 35 U.S.C. §102(a) and 102(b). See EX1016.

98. *Wang* relates generally to multimedia streaming, and more particularly to receiver buffer fullness management of the multimedia streaming client. EX1016, 1:7-9. FIG. 3 of *Wang* is as follows: