

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YAHOO! INC.,
Petitioner,

v.

INTENT IQ, INC.,
Patent Owner.

Case IPR2017-01299
Patent 8,677,398 B2

Before KRISTEN L. DROESCH, STACEY G. WHITE, and
MINN CHUNG, *Administrative Patent Judges*.

DROESCH, *Administrative Patent Judge*.

DECISION

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

I. INTRODUCTION

A. Background

Yahoo! Inc. (“Petitioner”) filed a Petition (Paper 7, “Pet.”) for *inter partes* review of claims 13–17 and 19–26 (“the challenged claims”) of U.S. Patent No. 8,677,398 B2 (“the ’398 Patent”). See 35 U.S.C. §§ 311–312. Intent IQ, Inc. (“Patent Owner”) timely filed a Preliminary Response (Paper 8, “Prelim. Resp.”).

We have authority under 35 U.S.C. § 314 and 37 C.F.R. § 42.4. An *inter partes* review may not be instituted unless it is determined that “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).

After considering the Petition and the Preliminary Response, for the reasons provided below, we determine, based on the record before us, there is not a reasonable likelihood Petitioner would prevail in showing the challenged claims are unpatentable.

B. Related Matters

The parties indicate the ’398 Patent is asserted in *AlmondNet, Inc. v. Yahoo! Inc.*, No.1:16-cv-01557-ILG-SMG (E.D.N.Y.). Pet. 73; Paper 6, 2. Patent Owner indicates the ’398 Patent is related to pending Application No. 15/179,356. Paper 6, 2.

C. The '398 Patent (Ex. 1001)

The '398 Patent discloses a method for delivering targeted television advertisements based on online behavior. *See* Ex. 1001, Abstract.

Figure 7 of the '398 Patent is reproduced below:

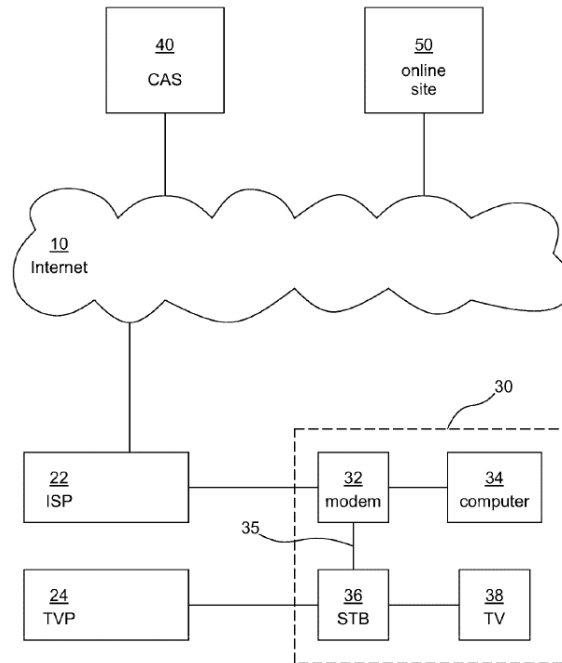


Figure 7 depicts central ad server (CAS) 40 and online site 50 connected to Internet 10, modem 32 connected to internet service provider (ISP) 22 and Internet 10 for providing online access, computer 34, set-top box (STB) 36, and TV 38 connected to modem 32, and television provider (TVP) 24 connected to STB 36 to provide television service. *See* Ex. 1001, 12:47–13:21. An identifier can be assigned to STB 36, such as an equipment serial number or a portion thereof, a device MAC address or a portion thereof, a username, a pseudonym, a confirmation number, a tag or other identifying code or data element, and may include the IP address the STB is using when in contact with CAS 40. *See id.* at 15:1–14. “If a unique identifier is used (such as a complete MAC address or a complete device

serial number) then misdirecting the television ad is virtually impossible.”
Id. at 15:39–41.

Once a STB is confirmed to have been using a certain IP address at a certain date and time (for example by having a uniquely tagged STB consecutively communicate with the CAS using the same IP address . . .), the CAS database can be searched to find all computers, mobile devices, and other STBs that used the same IP address at the same date and time, and those will be assumed to be devices that are part of the same household and same LAN. Then, an association or link is created among the devices, by linking the device identifiers or tags with the STB’s identifier in the CAS database

Once the association is created, profile information (both behavioral and demographic) collected about the computers and mobile devices before and after the association was created could be used to target ads to the STB, regardless of the IP addresses used by the computers and mobile devices (such as cell phones) to access the web at the time the profiles were collected.

Ex. 1001, 18:24–50.

D. Illustrative Claim

Of the challenged claims, claim 13 is independent, with claims 14–17, and 19–26 dependent ultimately from claim 13. Claims 13 is illustrative and reproduced below:

13. A method implemented using a programmed hardware computer system, the method comprising:
- (a) based on first electronic profile data associated with an electronic identifier of a first device, automatically causing, with the computer system, an action to be taken with respect to a second device that is indicated at the time of the action by an electronic identifier electronically associated with the first device identifier;
 - (b) wherein the electronic association between the first and second device identifiers is based on connection, before the action, of each of the first and second devices, independently of the other, to a common local area

network, wherein the computer system is connected to the local area network through the Internet but is not in the local area network.

Ex. 1001, 24:47–61.

E. Asserted Grounds of Unpatentability

Petitioner challenges the patentability of the following claims of the '398 Patent on the following grounds and prior art (Pet. 13–72):

Claim(s)	Statutory Basis	Reference(s)
13–17, 19, 21–23, and 26	§ 102	Banga ¹
20, 24, and 25	§ 103	Banga and Julia ²
13–17, 19–23, and 26	§ 103	Banga and Zito ³
24 and 25	§ 103	Banga, Zito, and Julia
13–17 and 19–26	§ 103	Julia

The Petition also relies on the Declaration of Stephen Gray (Ex. 1003).

II. ANALYSIS

A. Claim Construction

Claims of an unexpired patent that will not expire before issuance of a final written decision are interpreted using the broadest reasonable interpretation in light of the specification. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Neither party provides explicit proposed claim constructions. *See* Pet. 9–10; Prelim. Resp. 2. For purposes of this decision, we need not construe explicitly any claim terms or phrases. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200

¹ Ex. 1004, US Patent Application Publication No. 2006/0271690 A1, published Nov. 30, 2006 (“Banga”).

² Ex. 1005, US Patent No. 8,880,677 B2, issued Nov. 14, 2014 (“Julia”).

³ Ex. 1006, US Patent No. 8,015,184 B2, issued Sept. 6, 2011 (“Zito”).

F.3d 795, 803 (Fed. Cir. 1999) (“[O]nly those terms need be construed that are in controversy and only to the extent necessary to resolve the controversy.”).

B. Grounds of Unpatentability

1. Anticipation of Claims 13–17, 19, 21–23, and 26 by Banga

a. Overview of Banga (Ex. 1004)

Banga discloses systems and methods for developing customer relationships with a network access point. See Ex. 1004 ¶ 9, Abstract.

Figure 2 of Banga is reproduced below:

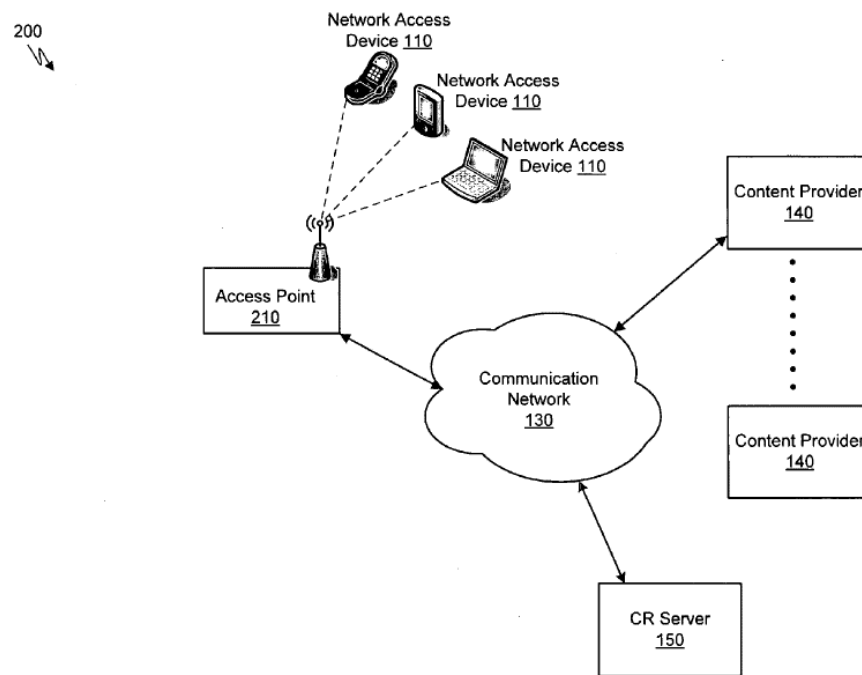


Figure 2 illustrates environment 200 comprising client relationship (CR) server 150 and content providers 140 connected to communication network 130, and multiple network access devices 110 connected to communication network 130 through access point 210. See Ex. 1004 ¶¶ 22–33. Network access device 110 is any digital device capable of communicating over a network, such as computers, laptops, personal digital

assistants, and cellular phones. *See id.* ¶ 24. Each network access device 100 may contain a device identifier such as a media access control (MAC) address, an international mobile station identity (IMSI), or an international mobile equipment identity (IMEI). *See id.* When network access device 110 seeks network access, it provides a device identifier such as a MAC address to access point 210. *See id.* ¶ 30. Access point 210 is configured to direct the device identifier and access information to CR server 150. *See id.* ¶ 33.

Access information can comprise any information associated with the network access device 110 sending the device identifier to the CR server 150. In one example, access information identifies the access point 210 (such as an IP address or other identifier). The access information may also comprise an access point identifier (e.g., information that identifies the sending access point 210, service provider 120, or device sending the device identifier) [, and] information identifying the date and time the network access device 110 seeks access.

Ex. 1004 ¶ 34.

CR server 150 is configured to receive the device identifier and access information from access point 210 and store it in a device record. *See id.* ¶¶ 37, 42. The device record tracks the device identifier and access information. *See id.* ¶ 37. Each different device identifier may have a different device record. *See id.* ¶ 38. CR server 150 generates user profiles based on the information contained within the device record (e.g., device identifier, access information). *See id.* ¶¶ 39, 42, 46. “A user profile may be an individual profile of a user identifying one or more individual characteristics or one or more group characteristics of multiple users.” *Id.*

¶ 39, *see id.* ¶ 47; *see also id.* ¶ 46 (“The user profile may comprise one or more device identifiers”) Figure 4 of Banga is reproduced below:

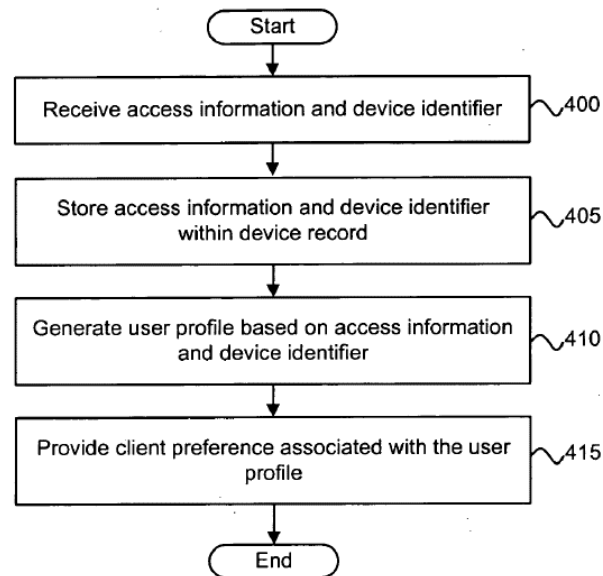


Figure 4 is a flow chart of a method for providing a user preference to develop customer relationships. Ex. 1004 ¶ 53. In step 400, CR server 150 receives access information and the device identifier. *See id.* ¶ 53. In step 405, CR server 150 stores the access information and device identifier within a device record. In step 410, CR server 150 generates a user profile based on the access information and the device identifier, and may be based on the device history or other information associated with the device identifier. *See id.* ¶ 57. In step 415, CR server 150 provides the user preference associated with the user profile, such as an advertisement tag. *See id.* ¶¶ 59–60.

In an example, the CR server 150 may receive an index of advertisements and associated advertisement information (e.g., brands associated with the advertisements.) A device record may refer to a user currently accessing a content provider 140. Instead of placing a random advertisement on the content provider 140 for the user to see, the advertisement server may direct a request for an advertisement tag with the user’s IP address to the CR

server 150. The CR server 150 can then check the user profile for the user using the user's IP address. If the user is within a user profile or a user profile can be generated from a device record, then the CR server 150 will use the user profile to select an advertisement from the index of advertisements that satisfy the requirements of the advertisement server and fit the user profile. The advertisement tag (i.e., user preference) can then be sent to the advertisement server, which in turn, can provide the proper advertisement to the content provider 140.

Ex. 1004 ¶ 60.

b. Claims 13–17, 19, 21–23, and 26

Petitioner asserts that Banga discloses “based on first electronic profile data associated with an electronic identifier of a first device, automatically causing . . . an action to be taken with respect to a second device that is indicated at the time of the action by an electronic identifier electronically associated with the first device,” as recited in claim 13. *See* Pet. 22–23. Petitioner identifies Banga's description of a user profile as disclosing the claimed “first electronic profile data,” and Banga's description of a first network access device that has a device identifier” as disclosing the claimed “an electronic identifier of a first device.” *Id.* at 22 (citing Ex. 1004 ¶¶ 46–47; Ex. 1003 ¶¶ 76–77 (Petitioner's declarant stating the same)). Petitioner also contends that “Banga discloses that the ‘user profile may comprise one or more device identifiers.’” *Id.* (quoting 1004 ¶ 46). Petitioner argues that Banga “discloses a CR server which directs advertisements to *all* devices that are associated with the same ‘user profile.’” *Id.* at 23 (quoting Ex. 1004 ¶ 60; citing Ex. 1003 ¶ 78 (Petitioner's declarant stating the same)) (emphasis added). Petitioner reasons, “[b]ecause the system of Banga includes numerous devices associated with a single profile . . . the CR server causes ‘an action to be taken with respect to

a second device.’” *Id.* at 23 (quoting Ex. 1004 ¶¶ 28, 30; citing Ex. 1003 ¶ 79 (Petitioner’s declarant stating the same)). Petitioner further argues, “Banga discloses that multiple ‘network access devices’ are associated with the same user profile . . . based on ‘access information’ associated with the ‘access point’ to which the various ‘network access devices’ are connected.” *Id.* at 23 (citing Ex. 1004 ¶¶ 30, 34, 46, 57; Ex. 1003 ¶ 80 (Petitioner’s declarant stating the same)). Petitioner contends that “[t]he device to which the action is directed is ‘indicated at the time’ due to its association with a common ‘user profile’ based on the ‘access information’ of devices on an ‘access point.’” *Id.* (citing Ex. 1004 ¶¶ 30, 34, 46, 57; Ex. 1003 ¶ 80 (Petitioner’s declarant stating the same)).

Petitioner’s arguments and supporting evidence are insufficient to demonstrate that Banga discloses every limitation of the claims as arranged in the claims. *See Therasense, Inc. v. Becton, Dickinson and Co.*, 593 F.3d 1325, 1332 (Fed. Cir. 2010) (“Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.”). In particular, Petitioner’s arguments and supporting evidence are insufficient to demonstrate that Banga discloses, “automatically causing . . . an action to be taken with respect to a second device.” Although Petitioner asserts that Banga “discloses a CR server which directs advertisements to all devices that are associated with the same ‘user profile’” (Pet. 23 (quoting Ex. 1004 ¶ 60) (citing Ex. 1003 ¶ 78)), Petitioner does not direct us to evidence sufficient to support this assertion. Petitioner relies upon the following quotation from Banga to support its argument: “If the user is within a user profile or a user profile can be generated from a device record, then the CR server 150 will use the user profile to select an advertisement

from the index of advertisements that satisfy the requirements of the advertisement server and fit the user profile.” Ex. 1004 ¶ 60. In other words, the quoted portion of Banga’s paragraph 60 is silent with regard to sending an advertisement to all devices, and is silent with respect to sending an advertisement to any device. Apart from reproducing the text of the quoted portion of paragraph 60, the testimony of Mr. Gray cited by Petitioner is identical to Petitioner’s assertion. See Ex. 1003 ¶ 78. Thus, Petitioner does not provide sufficient evidence to support its contention that one of ordinary skill in the art would have read this passage to disclose the recited action (sending an advertisement to a device) occurs based on the profile data associated with a device. Because Petitioner does not direct us to evidence to support its assertion that Banga’s CR server directs advertisements to *all* devices associated with the same user profile, Petitioner does not demonstrate that Banga discloses the CR server causes an action to be taken with respect to a second device.

In any event, even if Petitioner presented arguments and evidence sufficient to show that Banga discloses the CR server causes an action to be taken with respect to a second device, Petitioner’s arguments and supporting evidence also are insufficient to show that Banga discloses the following additional limitations of claim 13: (1) “*a second device that is indicated . . . by an electronic identifier;*” and (2) “*wherein the electronic association between the first and second device identifiers is based on connection, before the action, of each of the first and second devices, . . . to a common local area network.*” Petitioner’s arguments supporting its assertions that Banga discloses these limitations rest on Banga’s disclosures of: (1) a user profile comprising one or more device identifiers, current IP address

associated with device identifiers, access information, and device histories (see Ex. 1004 ¶ 46); (2) multiple network access devices coupled to an access point (see Ex. 1004 ¶ 30, Fig. 2); and (3) generating a user profile based on device identifier and access information, such as an IP address identifying the access point (see Ex. 1004 ¶¶ 34, 57). See Pet. 23–24 (citing Ex. 1004 ¶¶ 30, 34, 46, 57; Ex. 1003 ¶¶ 80–82 (Petitioner’s declarant stating the same)). Petitioner, however, does not explain sufficiently how Banga’s alleged description of a device’s “association with a common ‘user profile’ based on the ‘access information’ of devices on an ‘access point’” (*id.* at 23) discloses a second device indicated by an electronic identifier, as required by claim 13. Petitioner also does not explain sufficiently how Banga’s description of network access devices connected to an access point with an assigned IP address discloses an electronic association between the first and second device identifiers. See *id.* at 24–25. Petitioner does not direct us to any description in Banga that discloses an electronic identifier indicating a second device, i.e., a second device identifier, and an electronic association between a first device identifier and second device identifier.

Accordingly, based on the record before us, there is not a reasonable likelihood that Petitioner would prevail in showing independent claim 13, and claims 14–17, 19, 21–23, and 26, dependent therefrom, are unpatentable as anticipated by Banga.

2. Unpatentability of Claims 20, 24, and 25 over Banga and Julia

Claims 20, 24, and 25 depend from claim 13. As applied by Petitioner, the teachings of Julia do not remedy the deficiencies of Banga discussed in the preceding section-addressing claim 13. See Pet. 36–44. Accordingly, for the same reasons as those addressing claim 13 in the

preceding section, based on the record before us there is not a reasonable likelihood Petitioner would prevail in showing that claims 20, 24, and 25 are unpatentable over Banga and Julia.

3. *Unpatentability of Claims 13–17, 19–23, and 26 over Banga and Zito*

a. *Overview of Zito (Ex. 1006)*

Zito discloses a system including a set-top box (STB) connected to a network and a back-end system. *See* Ex. 1006, 8:24–51, Fig. 4. The system enables tracking of viewer watching behaviors and/or searching habits to develop a viewer profile for advertisement targeting. *See id.* at 2:57–67; 3:60–4:3, 5:43–52, 6:35–48. The back-end system is used to store viewer databases that maintain individual viewer profiles. *See id.* at 5:8–10, 36–41. Viewer profiles are used to tailor specific content to particular viewers. *See id.* at 5:10–14. A client device, such as an STB, is detected by the back-end system, and may be identified based on a device ID. *See id.* at 7:20–31, Fig. 3: step 300. Once the client device is detected, a viewer profile associated with the particular client device is accessed. *See id.* at 7:32–20–38, Fig. 3: step 320. Viewer actions are tracked, and the viewer’s profile is updated, by transmitting relevant data to the back-end system via the network, where the back-end system updates the profile database. *See id.* at 7:51–60, 8:5–9, Fig. 3: steps 350, 360. The process of tracking viewer activities and updating the viewer’s profile may continue until the client device is logged out or powered down. *See id.* at 8:9–14, Fig. 3: step 370. Zito further discloses: “It is to be appreciated that given the identity of the user (e.g., from the client device ID), the preferences and viewer profile as they apply to a viewer can now be directly applied to this same viewer on any other device that can be identified with the user.” *Id.* at 8:14–18.

b. Claims 13–17, 19–23, and 26

Petitioner argues:

to the extent [Patent Owner] argues Banga does not anticipate [the] claims . . . , because [Banga] does not expressly disclose “based on first electronic profile data associated with a first device, automatically causing, with the computer system, an action to be taken with respect to a second device,” as required by . . . claim 13, the combination of Banga and Zito renders those claims obvious.

Pet. 47–48 (citing Ex. 1003 ¶¶ 82–93). In support of its arguments, Petitioner contends that Zito discloses using user profile data derived from user viewing and/or searching activities to target personalized advertising/commercial content. *See id.* (citing Ex. 1006, 3:66–4:1, 5:36–41, 5:45–52, 8:52–58). More specifically, Petitioner asserts that Zito discloses that the user profile can be derived from a user’s interactions with a first device, and that it can be applied to a different, second device. *See id.* (citing Ex. 1006, 8:15–23). Petitioner contends a person of ordinary skill in the art “could readily have applied the network architecture and content targeting system described in Zito to Banga’s system of targeting based on user profiles.” *Id.* at 46 (citing Ex. 1003 ¶ 124 (Petitioner’s declarant stating the same)). In support of combining the teachings of Banga and Zito, Petitioner asserts: (1) Banga and Zito are in the same field of endeavor; (2) Banga and Zito address the same problem; (3) modifying Banga to use the network architecture of Zito was a simple design choice; and (4) a person of ordinary skill in the art would have had a reasonable expectation of success. *See id.* at 45–46 (citing Ex. 1004 ¶¶ 3, 5, 24 82; Ex. 1006, 1:21–27, 48–53; Ex. 1003 ¶¶ 122–124 (Petitioner’s declarant stating the same)).

Petitioner's arguments and supporting evidence are insufficient to demonstrate that the combination of Banga and Zito teaches or suggests all of the limitations of claim 13. We recognize that Zito teaches "given the identity of a user (e.g., from the client device ID), the preferences and viewer profile as they apply to a viewer can now be directly applied to any other device that can be identified with the user." Ex. 1006, 8:15–19. Petitioner, however, does not explain how Zito would remedy the deficiencies of Banga's teachings discussed above in Section II.B.1.b. In particular, Petitioner's arguments and supporting evidence do not sufficiently address how the combination of Banga and Zito teach or suggest "*a second device that is indicated . . . by an electronic identifier electronically associated with a first device identifier; wherein the electronic association between the first and second device identifiers is based on connection, before the action, of each of the first and second devices, . . . to a common local area network,*" as recited in claim 13. See Pet. 44–49. Zito is silent as to the recited electronic association between the electronic device identifiers.

Accordingly, based on the record before us, there is not a reasonable likelihood that Petitioner would prevail in showing claim 13, and claims 14–17, 19–23, and 26, dependent therefrom, are unpatentable over Banga and Zito.

4. Unpatentability of Claims 24 and 25 over Banga, Zito, and Julia

Claims 24 and 25 depend from claim 13. As applied by Petitioner, the teachings of Julia do not remedy the deficiencies of Banga and Zito discussed in the preceding section-addressing claim 13. See Pet. 36–41, 43–44, 50. Therefore, for the same reasons as those addressing claim 13 in the

preceding section, based on the record before us there is not a reasonable likelihood Petitioner would prevail in showing that claims 24 and 25 are unpatentable over Banga, Zito, and Julia.

5. Unpatentability over Julia

a. Overview of Julia (Ex. 1005)

Julia discloses providing targeted content to a designated set of one or more interconnected resources. *See* Ex. 1005, 2:41–42, Abstract.

Figure 5 of Julia is reproduced below:

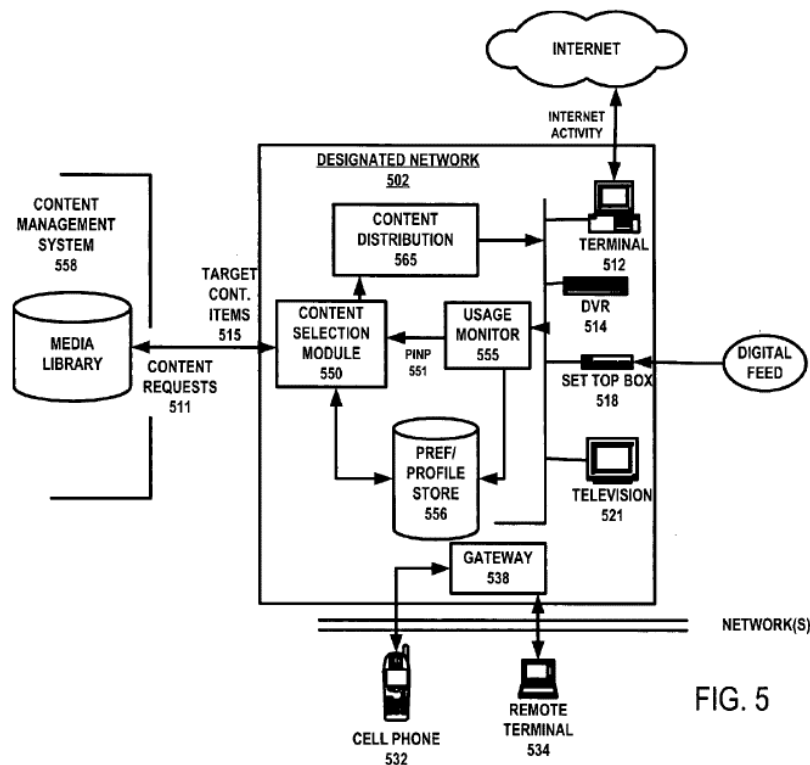


FIG. 5

Figure 5 illustrates network 502 including digital video recorder (DVR) 514, set top box (STB) 518, television 521 interconnected through media station computer 512. *See* Ex. 1005, 11:38–43. Cell phone 532 and remote terminal 534 can communicate with DVR 514, STB 518, television 521, and media station computer 512 through gateway 538. *See id.* at 11:43–47. Network 502 includes usage monitor 555, preference/profile data

store 556, content selection module 550, and content distribution component 565. *See id.* at 11:48–12:61. Usage monitor 555 procures data relating to the user’s activities on network 502, and may monitor the media station computer 512, DVR 514, STB 518, television 521, cell phone 532, and remote terminal 534. *See id.* at 11:58–12:3. Data store 565 stores known information about the user or users of network, including user preferences. *See id.* at 12:4–7. Content selection model 550 makes determinations from profile inputs 551 of the usage monitor 555, and makes content requests 511 to content management system 558. *See id.* at 12:8–20. Content management system 558 decodes content requests 511 and selects targeted content items 515 for delivery to network 502. *See id.* at 12:20–23. Content distribution component 565 distributes content items 515 to all or select devices. *See id.* at 12:34–38. Content distribution component 565 can reformat content items 515 for different platforms and device capabilities, as well as device-specific applications. *See id.* at 12:39–54.

b. Claims 13–17 and 19–26

Petitioner asserts that Julia’s disclosure of tracking information about devices or resources used by the user, such as make, type, and model of computers, cell phones or televisions teaches the device identifiers required by the claims. *See* Pet. 52 (citing Ex. 1005, 4:54–58; Ex. 1003 ¶ 142 (Petitioner’s declarant stating the same)). Petitioner contends that Julia teaches “automatically causing . . . an action to be taken with respect to a second device that is indicated at the time of the action by an electronic identifier electronically associated with the first identifier,” as recited in claim 13. *See* Pet. 51–54. Petitioner bases its argument on Julia’s description of providing targeted content to a designated set of one or more

interconnected resources, including any combination of computers, devices, applications, and network resources designated to belong or be for use by a user or a group of users, such as a home network. *See id.* at 54 (citing Ex. 1005, 2:41–3:4; Ex. 1003 ¶ 145 (Petitioner’s declarant stating the same)); *accord* 52–53 (citing Ex. 1005, 2:16–31, 10:63–11:3; Ex. 1003 ¶ 143 (Petitioner’s declarant stating the same)). Petitioner asserts that the content is targeted to devices that are interconnected to each other at the time of the targeting. *See id.* at 54–55 (reproducing Ex. 1005, Fig. 5; citing Ex. 1005, 2:41–3:4, 10:63–11:3; Ex. 1003 ¶ 145 (Petitioner’s declarant stating the same)). Petitioner further contends that Julia teaches, “the electronic association between the first and second device identifiers is based on connection, before the action, of each of the first and second devices . . . to a common local area network,” as recited in claim 13. *See id.* at 56–57. Petitioner’s assertions are based on Julia’s description of targeting content to any of a designated set of one or more interconnected resources, designated to belong to or be for use by a user or group of users, and linked to each other through data channels, networks, and/or intermediate devices or resources, such as a home network or LAN. *See id.* at 57 (citing Ex. 1005, 2:56–3:4, 13:29–31; Ex. 1003 ¶ 147 (Petitioner’s declarant stating the same)). Petitioner argues the devices are associated in a user profile that includes information about a user including information about the user’s network. *See id.* (citing Ex. 1005, 4:34–45).

Petitioner’s arguments and supporting evidence are insufficient to demonstrate that Julia teaches or suggests all of the limitations of claim 13. Specifically, Petitioner’s arguments and supporting evidence are insufficient to demonstrate that Julia teaches or suggests “automatically causing . . . an

action to be taken with respect to *a second device* that is *indicated . . . by an electronic identifier electronically associated with the first device identifier*,” and “wherein *the electronic association between the first and second device identifiers* is based on connection, before the action, of each of the first and second devices . . . to a common local area network,” as recited in claim 13. Although Petitioner demonstrates that Julia teaches an electronic association between devices that interconnected to a home network or local area network, claim 13, however, requires an electronic association between the first device *identifier* and the second device *identifier*. Consistent with Petitioner’s identification of Julia’s disclosure of make, type, or model of computer, cell phone, or television as teaching the claimed device identifiers, Petitioner does not establish sufficiently that Julia teaches or otherwise suggests a second device indicated by an electronic identifier electronically associated with the first device’s make, type, or model, and an electronic association between the first device’s make, type, or model and the second device’s make, type, or model. *See* Pet. 51–57; Ex. 1003 ¶¶ 141–147.

Accordingly, based on the record before us, there is not a reasonable likelihood that Petitioner would prevail in showing claim 13, claims 14–17 and 19–26, dependent therefrom, are unpatentable over Julia.

III.CONCLUSION

For the foregoing reasons, based on this record, there is not a reasonable likelihood Petitioner would prevail in showing claims 13–17 and 19–26 are unpatentable over Julia.

IV. ORDER

Accordingly, it is ORDERED that *inter partes* review of U.S. Patent No. 8,677,398 is not instituted based on this Petition.

IPR2017-01299
Patent 8,677,398 B2

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