

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FREEWHEEL MEDIA, INC.,

Petitioner,

v.

INTENT IQ, LLC,
Patent Owner.

IPR2024-00421
Patent 7,861,260 B2

**SECOND DECLARATION OF DAVID B. LETT IN SUPPORT
OF PETITIONER FREEWHEEL MEDIA, INC.'S REPLY TO
PATENT OWNER'S RESPONSE**

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I, David B. Lett, declare that I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would do so competently.

I. INTRODUCTION

1. I have been retained as an expert witness on behalf of the Petitioner, FreeWheel Media, Inc., for the above-referenced *inter partes* review proceeding.

2. I have been asked to provide an additional declaration responding to arguments raised by the Patent Owner in its Response dated January 7, 2025, and in the Declaration of Mr. Erik de la Iglesia dated January 7, 2025.

3. I am being compensated at my usual consulting rate for my work on this matter. This compensation is in no way dependent upon my opinions, my testimony, or the outcome of this proceeding.

II. MATERIALS REVIEWED

4. In connection with my study of this matter and reaching the opinions stated herein, I have reviewed a number of documents including the exhibits listed in Appendix A.

III. UNDERSTANDING OF APPLICABLE LEGAL STANDARDS

5. Although I am not an attorney, I have a general understanding of the applicable legal standards pertaining to the patentability issues presented in this

proceeding. That understanding was set forth in Section IV of my first Declaration. Ex. 1002, ¶¶ 18-28.

IV. ARGUMENT

6. Patent Owner and Mr. de la Iglesia contend that my “combination of Baig with Costa” would not have been obvious because it requires two assumptions to be true in order for the combination to be obvious. The first assumption is that it would have been obvious to set up a set-top box at a public Wi-Fi hotspot and the second assumption is that the STB in the combined system would be used to visit Baig’s VCSP website using the hotspot. POR, 4-5; Ex. 2001, ¶ 34. I do not agree that these assumptions must be proven true in order for the combination to be obvious. As I explained in my first declaration, a POSA would have had clear motivations to put Costa’s STB in Baig’s public Wi-Fi hotspots. Nonetheless, these alleged assumptions, to the extent they are provided weight, would not change my analysis. It is still my opinion that, at least by April 17, 2007 (the earliest priority date of the ’260 Patent), a POSA would have found it obvious to combine Costa’s STB with Baig’s public wireless hotspot environments. *See* §§IV.A-D.

A. THE BAIG-COSTA-ZWICKY AND BAIG-COSTA-BANGA690 GROUNDS WERE NOT LIMITED TO COFFEE SHOPS

7. Underlying Patent Owner’s arguments is the factually incorrect notion that the Baig-Costa-Zwicky and Baig-Costa-Banga690 grounds were limited to

adding Costa's STB to Baig's Wi-Fi hotspot in coffee shop environments. POR, 1-2, 4-5. This is echoed by Mr. de la Iglesia, who asserts that "I note that throughout his declaration, a coffee shop is the *only* example of a location that Mr. Lett provides in which it would have been allegedly obvious to provide a STB." Ex. 2001, ¶ 33. But none of my declaration, Baig, or Costa was limited to just coffee shops.

8. I provided detailed analysis on why the proposed combination would be obvious in locations that incorporate Baig's public Wi-Fi hotspots. For example, I explained that "modifying Baig to include Costa's set-top box would simply result in a system as described in Baig with a set-top box connected to the Internet [] through the same common access point [] as the other mobile devices [] at the hotspot." Ex. 1002, ¶ 157. I further explained that "[m]odifying Baig's system to include a set-top box with the devices 102 would have been a natural extension of providing Internet access to other computing devices such as phones, laptops, etc., as described in Baig." Ex. 1002, ¶ 159. I also explained that "the combination provides the additional benefit of having a wider range of device types available at a particular access point" and that "including a set-top box would have enhanced Baig's ability to target individuals based on demographics, such as by providing vicinity-based targeted advertising based on ... what television content ... is being provided to individuals through the set-top box." Ex. 1002, ¶¶ 160-161. Thus, my analysis sufficiently evidenced that a POSA would have found it obvious to combine

at least Costa's STB with Baig's public Wi-Fi hotspots (including, but not limited to, coffee shop environments).

9. My analysis included Baig's public Wi-Fi hotspots in general (and not just public Wi-Fi hotspots at coffee shops) because this is what is taught in Baig (and Costa). Even Mr. de la Iglesia admitted in his deposition that Baig's Wi-Fi hotspots "are described generally." Ex. 1062, 17:13-21.

10. Baig specifically contemplates its system being implemented in a variety of public environments that again include, but are not limited to, coffee shops. Baig itself provides several examples of public environments that can host its public Wi-Fi hotspots, including airports and libraries. Ex. 1007, ¶¶ [0052], [0057], [0078], [0126]. And Baig itself acknowledges that public Wi-Fi hotspots have "skyrocketed" in public environments such as "parks, cafes, bookstores, airports and college campuses," which a POSA would have understood to also be public environments that could host Baig's public Wi-Fi hotspots. Ex. 1007, ¶ [0037]; *see also*, Ex. 1007, ¶ [0058]. And Costa is similarly explicit in contemplating that its networks can be used in a variety of locations, including "automobiles, airplanes, boats, public wireless hotspots, etc." Ex. 1011, ¶ [0036].

11. Mr. de la Iglesia's decision to limit his analysis to the specific context of coffee shops (Ex. 1062, 13:19-23, 25:10-16) is not only wrong, as I explain above, but fatally undermines his conclusions. Mr. de la Iglesia's analysis expressly rests

on “common coffee shop behaviors.” Ex. 2001, ¶ 38. Mr. de la Iglesia does not provide any analysis or conclusions on public Wi-Fi hotspots outside of coffee shops in his declaration. *See*, Ex. 2001. When asked if his conclusions would be different if expressly considering a set-top box to a public hotspot at location *other than* a coffee shop, Mr. de la Iglesia admits they would not “because it goes to the addition of a set-top box to a space based on the example of the coffee shop used by Dr. Lett.” Ex. 1062, 26:14-21. A POSA would recognize this to be an untenable position because at a minimum, “common coffee shop behaviors” are not necessarily common public environment behaviors (and may well be opposite to common behaviors at certain other public environments). Thus, Mr. de la Iglesia’s analysis fails to dispute my position that it would have been obvious to a POSA to combine Costa’s hotspot with Baig’s public Wi-Fi hotspots.

B. A POSA WOULD HAVE FOUND IT OBVIOUS TO COMBINE COSTA’S STB WITH BAIG’S PUBLIC WIRELESS HOTSPOT AS PROPOSED IN THE BAIG-COSTA-ZWICKY AND BAIG-COSTA-BANGA690 GROUNDS

12. For reasons that I discuss in detail below, it is my opinion that, at least by April 17, 2007 (the earliest priority date of the ’260 Patent), a POSA would have found it obvious to combine Costa’s STB with Baig’s public wireless hotspot environments (including, but not limited to, coffee shops).

13. Patent Owner and Mr. de la Iglesia begin by taking issue with my alleged failure to “provide any changes to Baig’s content server that would be required to make [my] proposed modification of adding a STB to Baig’s public wireless hotspot.” POR, 1-2; Ex. 2001, ¶ 30. But this alleged failure assumes that it is necessary for the combination to provide “streaming or television service.” POR, 1-2; Ex. 2001, ¶ 34. In fact, neither claim 1 of the ’260 Patent nor the combinations in Grounds A and B require Baig to provide “streaming or television service.” Thus, any alleged failure to address modifications to Baig’s content server to provide streaming or television service is irrelevant. My analysis sufficiently addressed the modifications that would be made to Baig in the combined systems.

14. Patent Owner and Mr. de la Iglesia then find fault with my alleged failure to identify *who* would have found it obvious to add the STB to the Wi-Fi access point. POR, 6-7, 10; Ex. 2001, ¶ 36. As I previously explained, my understanding of the applicable legal standards pertaining to the patentability issues presented in this proceeding include that “a patent claim is unpatentable if, at the time of the invention, it would have been obvious to a *POSA* to combine the teachings of the prior art to yield the patent claim” (emphasis added). Ex. 1002, ¶ 21. And as I also previously explained, I was a *POSA* at the time of the claimed invention of the ’260 Patent. Ex. 1002, ¶¶ 4-16.

15. Thus, my analysis first explained how I, *as a POSA*, would have combined Costa's STB with Baig's public wireless hotspots. Ex. 1002, ¶¶ 156-165, 196-197. I explained that "it would have been obvious to and a POSA would have been motivated to include a set-top box at Baig's access point 106 so that individuals at the hotspot 110 containing access point 106 would have access to services such as televised content available via the set-top box." Ex. 1002, ¶ 196. I also explained that "as Costa teaches, wireless hotspot systems operating in public environments (which Baig also describes with respect to a coffee shop) included consumer electronic devices such as set-top boxes and televisions as part of a hotspot network." Ex. 1002, ¶ 197 (citations omitted). I provided details on how the combined system would work ("like each of the other devices 102, the set-top box would have an IP address corresponding to the IP address of the wireless access point 106") and explained that the combination would have been "a natural extension of providing Internet access to other computing devices such as phones, laptops, etc., as described in Baig." Ex. 1002, ¶¶ 158-159, 196, 198.

16. My analysis then explained why I, *as a POSA*, would have combined Costa's STB with Baig's public wireless hotspots. Ex. 1002, ¶¶ 156-165, 196-197. I explained the motivations within the context of public Wi-Fi hotspots in general by explaining that "the combination provides the additional benefit of having a wider range of device types available at a particular access point." Ex. 1002, ¶¶ 160-161. I

also explained the motivations within the context of public Wi-Fi hotspots in coffee shops by explaining that “including a set-top box would have enhanced Baig’s ability to target individuals based on demographics, such as by providing vicinity-based targeted advertising based on, for example, what television content (e.g., content displayed on the television including webpages and television programming) is being provided to individuals through the set-top box.” Ex. 1002, ¶¶ 160-161. Relevant to both contexts, I noted that “[a] POSA would have recognized that entertainment in a public venue such as a retail business is often beneficial to engage the user’s interest and maintain their presence at that location.” Ex. 1002, ¶ 160.

17. To ensure that I met the applicable legal requirements, I provided KSR rationales to support my contentions that a POSA would have been motivated to make such a combination. For example, I provided ample motivations grounded in the prior art for a POSA to combine the prior art as proposed. Ex. 1002, ¶¶ 159-161.

18. I further explained that adding Costa’s STB to Baig’s public wireless hotspot would have been obvious because the combination merely combines known prior art elements (“Baig’s VCSP system providing Internet access to different types of devices at a public wireless hotspot through a common access point and Costa’s system of operating a set-top box within a similar public wireless hotspot”) according to known methods (“Baig’s method of connecting devices at a hotspot through a common access point”) to yield predictable results (“an access point

connecting multiple devices at a hotspot, including a set-top box, to the VCSP hotspot access point 106 to participate in VSP services”). Ex. 1002, ¶ 162. Importantly, I expressly stated that my analysis was based on *KSR* obviousness rationales. Ex. 1002, ¶¶ 160-162.

19. While Patent Owner and Mr. de la Iglesia are correct that I did not identify the specific individual that would actually install the set-top box in the proposed modification to Baig (Ex. 2001, ¶ 36), this is beyond the purview of the legal requirements. My responsibility was simply to address why a POSA would have found the proposed combination to be obvious.

20. Mr. de la Iglesia puts forth “numerous reasons why it would not have been obvious to add a STB to a coffee shop offering Wi-Fi hotspot service,” including that it would be distracting to patrons and costly. Ex. 2001, ¶ 38. I disagree on both points based on many years of experience with set-top boxes and set-top box services. While a POSA would recognize that there could be tradeoffs, it is my opinion that a POSA would also recognize that the alleged tradeoffs do not defeat the combination. For example, a POSA would understand that designing any type of system requires considerations of cost, performance, commercial viability, flexibility, complexity, and the like. But a POSA would also be able to balance those considerations based on the needs of the system. As an example, while STBs cost money, a POSA would still be motivated to place a set-top box at a public hotspot

for the benefits described in my declaration. Ex. 1002, ¶¶ 160-161. Further, as I discuss above, the Baig-Costa-Zwicky and Baig-Costa-Banga⁶⁹⁰ combinations were never limited to just coffee shops, but even if they were, my analysis would be correct because placing a set-top box at a coffee shop would have had similar motivations and benefits as placing a set-top box at other public establishments including hotels, restaurants, retail locations, and the like. Ex. 1002, ¶ 160. I have first-hand knowledge of the desirability and considerations related to placing set-top boxes in these types of public environments. In particular, I worked at Scientific Atlanta, Cisco Systems, and Echostar (Dish Network sister company), where I focused on designing set-top boxes. For example, Dish Network set-top boxes that I was responsible for designing were commonly used in bars, restaurants, and other public areas. In another example, Scientific Atlanta interactive set-top boxes that I was responsible for designing were used throughout the 1996 public venues in the 1996 Olympics. Moreover, I am an inventor on numerous patents which establish that placing a set-top box in public environments such as hotels (which frequently have restaurants that serve coffee), hospitals (which frequently have coffee shops), schools, businesses, etc., was not only known, but a desirable feature. Ex. 1069; Ex. 1070; Ex. 1071; Ex. 1072. These patents pre-date the alleged date of invention of the '260 Patent. Ex. 1069; Ex. 1070; Ex. 1071; Ex. 1072. Extensive additional literature supports the notion that a set-top box in a public establishment such as a

coffee shop would not be undesirable. For example, U.S. Patent No. 7,809,154 (Ex. 1073) describes that a STB may be located for content presentation at a variety of establishments, including hotels, pubs, bars, and restaurants. Ex. 1073, 4:56-5:6, 5:39-55, 6:11-18, 14:23-25. Similarly, EP Patent No. 1415471 (Ex. 1074) describes that televisions and STBs were well known fixtures in at least hotel lobbies and bars. Ex. 1074, page 3, line 22 – page 4, line 8. Further, U.S. Patent No 7,792,756 (Ex. 1075) describes computing devices such as set-top boxes resident at coffee shops. Ex. 1075, 2:66-3:8, 4:31-5:8, 6:1-32 (describing a location communication region 104 at a coffee shop having a computing device 106 connected thereto), 12:2-12 (describing an example of a computing device as a set-top box). And U.S. Patent Pub. No. 2008/0235590 (Ex. 1077) describes multimedia devices such as a set-top box and/or television located in a coffee shop, hotel, or an airport. Ex. 1077, ¶¶ [0071], [0233], claim 18. *See also* Ex. 1076, ¶ [0053] (describing a TV set in a café). A POSA would recognize that the well-known nature of providing STBs as well as televisions in public environments such as bars would have the same draw and benefits as placing a STB in a coffee shop. For example, both bars and coffee shops serve beverages and are public environments patronized by users (individually and/or as groups) for purposes of consuming beverages, reading, socializing, working, relaxing, and/or the like.

21. Mr. de la Iglesia's argument also appears to allege that a POSA would not have a television in a coffee shop. I disagree, based on my extensive experience working at Scientific-Atlanta, Cisco Systems, and Echostar (Dish Network sister company), where I designed set-top boxes for industries such as the television industry. Not unlike most other companies, Scientific-Atlanta, Cisco Systems, and Dish Network had entire teams dedicated to marketing their products, such as set-top boxes, to many different types of businesses, including hotels, retailers (such as grocery stores), stadiums, transit stations, schools, medical offices, banks, dining venues (bars, restaurants, coffee shops, and the like). These companies marketed to any public venue in which users would linger voluntarily (bars, coffee shops, community centers) and/or because they were waiting for a service (banks, lobbies in medical offices). It was well-known as far back as the 1950s/1960s that it was desirable to include a television in these types of public venues for any number of reasons – it made the wait for a service more pleasurable (for example, patients at a medical office could have entertainment other than just magazines while waiting for their appointment due to televisions being installed in the waiting rooms), it was an attractive draw for customers (for example, playing NFL/MLB/NBA games at bars), it provided real-time information that would be useful to customers (for example, while waiting in line for a morning cup of coffee, a customer could watch the morning news).

22. And in fact, it was not only manufacturers of STBs/TVs and venue proprietors that made the push to install televisions in public venues – advertisers advocated for this as well (Ex. 1068). As a POSA would know, almost all advertisers have a primary goal of reaching the largest audience possible. And again, as far back as the 1950s/1960s, advertisers recognized that they could reach a larger audience by advertising their products/services on televisions or other publicly-viewable displays in public venues, such as retailers and dining establishments.

23. Thus, there were fundamental advantages of installing televisions in any public venue where people commonly gathered. Those advantages did not necessitate the use of the televisions for television streaming purposes exclusively. For example, a POSA would have understood that at the time of the invention, the television could and would be used to display websites (Ex. 1002, ¶¶ 156-165, 235-237; Ex. 1064), display information such as weather, stocks, etc. (Ex. 1065), display videos received from security cameras (Ex. 1066), purchase goods and/or services (Ex. 1067), retail advertising (Ex. 1068), gaming, and/or the like. These non-streaming applications each provided their own advantages, and each would have been sensible and obvious to a POSA.

24. It is my opinion, based on years of working in this field that televisions in public venues were commonly seen as a *draw*, not a distraction. And this became even truer as prices of televisions/STBs became more affordable. Besides providing

individual customers with useful up-to-date information (for example, the morning customer who can watch the morning news while in line for his morning coffee at the coffee shop, or a customer looking to view available goods in an online marketplace, or advertising for new products or services), a POSA would recognize that many of these public venues were “third-places” where people commonly gathered for purposes of socializing. Real-time communication among a group of individuals who were remotely located (for example, via text messaging) was not possible (or prevalent) in the 1950s-1990s. Thus, it was common for people to gather in third places such as coffee shops, community centers, and the like, to experience culture events such as sports games, television shows, video games, etc., together so that people could interact and socialize while watching or participating. And coffee shops and bars in particular were attractive public venues for obvious reasons, including that they provided food and drinks, thus making the inclusion of a television attractive for both customers and proprietors (continually higher sales which would significantly offset the one-time cost of installing a television/STB).

25. In light of all of the above and as set forth in my original declaration, a POSA would understand that combining Costa’s STB with the public wireless hotspot in Baig’s coffee shop (for example) would have advantages (which I also discuss above) that a POSA would readily consider and be able to balance against any potential disadvantages.

26. Mr. de la Iglesia's analysis of design tradeoffs is limited to an unreasonably small set of factors (cost, revenue, and distraction) and riddled with contradictions and conclusory statements. For example, Mr. de la Iglesia casts the lingering presence of coffee shop patrons as advantageous if they are at the coffee shop to "talk with friends or read a book" but disadvantageous if they are at the coffee shop to watch a television. Ex. 2001, ¶¶ 38-40. That a coffee shop opts to provide a public Wi-Fi hotspot evidences that it finds it beneficial for its patrons to remain on premises to use the service. With regards to the potential distraction caused by the presence of a television, he improperly extrapolates a potential distraction to a subset of patrons (those there to "talk with friends or read a book") to a wholesale distraction to all coffee shop patrons. Ex. 2001, ¶¶ 38-40. Mr. de la Iglesia's self-contradictory discussions on the lack of benefits in the proposed combination is evidence of that fact that design tradeoffs are quite nebulous and a POSA would recognize that the small number of allegedly disadvantageous factors identified by Mr. de la Iglesia does not render the combination non-obvious.

27. As I previously noted, "including a set-top box would have enhanced Baig's ability to target individuals based on demographics, such as by providing vicinity-based targeted advertising based on, for example, what television content (e.g., content displayed on the television including webpages and television

programming) is being provided to individuals through the set-top box”. Ex. 1002,

¶ 161. Mr. de la Iglesia responds as follows:

Mr. Lett’s alleged benefit to Baig’s VCSP server is akin to saying “Netflix would benefit from a coffee shop installing a TV and playing Netflix on the TV”—even if that is true, it is irrelevant because a benefit to Netflix would not cause the *coffee shop* (i.e., the entity that would control whether a television and STB are installed at the coffee shop) to provide an STB at the public hotspot.

Ex. 2001, ¶ 41. Mr. de la Iglesia’s analysis is simply wrong and indicative of a misunderstanding of the proposed combination on his part.

28. As I clearly explained, the benefit lies in Baig’s ability to target individuals based on demographics, not in Baig’s VCSP server. Ex. 1002, ¶ 161. Specifically, “Baig acquires information of its users by tracking profile information ... and the like of user devices connected using the access point IP address to facilitate providing services such as...targeting individuals based on demographics.” Ex. 1002, ¶ 226. The inclusion of a STB/television as one of Baig’s user devices would enhance its demographic-based targeting because additional information from the STB/television (a user device), such as the content being played on the television via the STB, along with Baig’s user profile information would be used to

provide even more refined targeting that would reach a wider relevant audience. Ex. 1002, ¶¶ 161, 165, 235-237.

29. Mr. de la Iglesia further argues that “Costa states that it is possible to add a set-top box to a public wireless hotspot, but does not suggest any motivation to do so” (emphasis removed). Ex. 2001, ¶ 44. Costa explicitly teaches including a STB within a public wireless hotspot environment. Ex. 1002, ¶¶ 195-197 (citing Ex. 1011, ¶¶ [0007], [0035]-[0037], [0042], Fig. 1). Mr. de la Iglesia admits as much, stating that Costa “cites a set-top box as an example of a digital media center that could be deployed in a universal plug and play network,” and “directly” says “that it may utilize any combination of wired and wireless networking technologies, and then lists a few wireless technologies, [including] 802.11 Wi-Fi.” Ex. 1062, 21:6-12, 22:3-10, 23:15-23. There is no need for Costa to provide a motivation for implementing a teaching that it expressly provides.

**C. A POSA WOULD HAVE FOUND IT OBVIOUS TO USE
COSTA’S STB TO VISIT BAIG’S VCSP WEBSITE USING THE
HOTSPOT AS PROPOSED IN THE BAIG-COSTA-ZWICKY
AND BAIG-COSTA-BANGA690 GROUNDS**

30. For reasons that I discuss in detail below, it is my opinion that, at least by April 17, 2007 (the earliest priority date of the ’260 Patent), a POSA would have found it obvious to use the STB and the public Wi-Fi hotspot to visit Baig’s VCSP website.

31. Mr. de la Iglesia contends that “there is no reason why the controller of that STB (presumably, the coffee shop itself) would navigate to Baig’s VCSP website which does not provide television service” (emphasis removed). Ex. 2001, ¶ 45. This contention assumes that “purported purpose of installing a television would presumably be to provide television service to visitors to the coffee shop.” Ex. 2001, ¶ 45. A POSA would understand that televisions are commonly used to provide services other than “television service[s]” and there is no reason that this would not be the case in the proposed combinations. For example, a POSA would have understood that at the time of the invention, the television would be used to display websites (Ex. 1002, ¶¶ 156-165, 235-237; Ex. 1064), display information such as weather, stocks, etc. (Ex. 1065), display videos received from security cameras (Ex. 1066), purchase goods and/or services (Ex. 1067), retail advertising (Ex. 1068), and/or the like. And within the context of the teachings in the Baig-Costa-Zwicky and Baig-Costa-Banga⁶⁹⁰ combinations, it would have been obvious to a POSA that the STB/television would be used to access Baig’s website. Ex. 1002, ¶¶ 156-165, 235-237.

32. Mr. de la Iglesia contends that none of Baig’s website services “would have been obvious for a coffee shop to display on a television in a public location because use of such services would require that someone be controlling the use of the website to the exclusion of others.” Ex. 2001, ¶ 46. This is false. In just one

example, Baig's Figure 6 is "a graphical user interface of a webpage for creating and identifying a mesh network of user hotspot locations affiliated with the service provider," that could be displayed on a television in a public location without requiring controlling the website "to the exclusion of others." Ex. 1007, ¶ [0018]; Ex. 2001, ¶ 46. Moreover, a POSA would understand that the number of controlling users has no bearing on any alleged privacy concerns because the combined system does not use any personally identifiable information. Ex. 1002, ¶¶ 191-222.

33. A POSA would understand that Baig's examples of VCSP tab headers 704 such as "Buy/Sell or Barter" 708 and "Lost and Found" 716 would be valuable to a coffee shop proprietor when displayed on a television via Costa's STB in Baig's Wi-Fi hotspot. Ex. 1007, ¶ [0079]; Ex. 1002, ¶¶ 100, 192. For example, even users that were not logged into the VCSP website on their personal devices would be able see on the television an item being offered for sale or barter that might be of interest, prompting them to log into the VCSP website via their personal device to indicate interest in the item(s). Ex. 1002, ¶¶ 100, 192. Similarly, a user that previously lost an item but is not logged into the VCSP website on their personal devices would still be able see via the television that the item has been found at the coffee shop and could contact the "STB operator" (per Mr. de la Iglesia, located at the coffee shop) to retrieve the item. Ex. 1002, ¶¶ 100, 192; Ex. 2001, ¶ 45. Thus, if the coffee shop was the STB operator (Ex. 2001, ¶ 45), those associated with the coffee shop would

understand the benefits of displaying these VCSP services to the customers via Costa's STB in Baig's Wi-Fi hotspot, such as increasing the desirability for customers to patronize his business and improving business metrics. Again, as I previously noted, "[a] POSA would have recognized that entertainment in a public venue such as a retail business is often beneficial to engage the user's interest and maintain their presence at that location." Ex. 1002, ¶ 160.

34. Mr. de la Iglesia also asserts that "it would not have been obvious for the owner of a coffee shop to either allow a user to navigate to Baig's website via the STB (to the exclusion of other users), or to themselves navigate to Baig's website via the STB." Ex. 2001, ¶¶ 46-47. First, Mr. de la Iglesia provides no reasoning or evidence to support his conclusion and it should be disregarded for that reason alone. Second, as noted above, the relevant inquiry is only whether the combination would be obvious to a POSA – not the coffee shop owner. Finally, it is my opinion that his conclusions are not consistent with Baig's disclosure or a POSA's knowledge. The coffee shop owner would be motivated to navigate to Baig's website via the STB for the same reason the coffee shop owner would be motivated to implement a public wireless hotspot in the first place – to enable the creation of location-based and vicinity-based communities which can provide a variety of benefits to retail proprietors, such as cross-promotional advertising. Ex. 1007, ¶¶ [0101] (teaching the wireless hotspot provider (coffee shop owner) using Baig's vicinity based community

to advertise itself), [0120] (teaching that the host of the hotspot can also be the advertiser using the vicinity based community services), [0054], [0058], [0061]-[0062], [0094]-[0095].

D. A POSA WOULD HAVE UNDERSTOOD THAT AN ADVERTISER COULD CONTRACT TO DISPLAY TV ADVERTISEMENTS AS PROPOSED IN THE BAIG-COSTA-ZWICKY AND BAIG-COSTA-BANGA⁶⁹⁰ GROUNDS

35. With respect to claims 121 and 146 only, Mr. de la Iglesia argues that “Baig does not disclose the ability of advertisers to specifically contract to display TV ads, as opposed to just displaying ads on Baig’s VCSP website.” Ex. 2001, ¶¶ 57-59. In my opinion, Mr. de la Iglesia appears to be importing additional requirements into these claims. Specifically, that an advertiser’s contract must expressly reference a TV ad, which must be part of a “television service.” He provides no support for these additional requirements. As I previously explained, Baig’s website and the advertisements displayed therein would be provided to Costa’s STB for presentation on a television, thus making these advertisements TV ads “as defined by the ’260 Patent” that advertisers can contract to display. Ex. 1002, ¶¶ 481-483, 486-489; Ex. 1001, 6:37-40; POR¹, 2. That Baig’s VCSP server does not provide “television service” is irrelevant because displaying television advertisements merely requires that the advertisements be displayed on a television,

¹ Patent Owner’s Response for IPR2024-00422.

not that the advertisements must be part of a television service. Further, Mr. de la Iglesia’s argument that “[w]hile the display of a TV ad might hypothetically occur as a result of an advertiser contracting to display an advertisement on Baig’s website, there would be no ‘contract[] to display a TV ad’” because “the contract would be completely agnostic to whether any TV ads were displayed” (Ex. 2001, ¶ 58) reads additional limitations into the claims. An advertiser that has contracted to display advertisements on Baig’s VSCP website, which can be displayed on Costa’s STB, has contracted to display a TV ad. *See* Pet.², 50-51; Ex. 1002, ¶¶ 481-483, 486-489. Thus, the proposed combinations teach claims 121 and 146.

² Petition for IPR2024-00422.

V. CONCLUSION

36. I believe that all of the statements made in this Declaration of my own knowledge are true. All statements made herein based on information and belief are believed to be true. These statements are made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and these statements are made with the knowledge that willful false statements may jeopardize the validity of the subject patent, it being understood that my final draft of this declaration is being submitted on my behalf via counsel.

Date: 4/30/2025



David B. Lett

APPENDIX A

Ex. 1001:	U.S. Pat. No. 7,861,260 (“the ’260 Patent”)
Ex. 1003:	Curriculum Vitae of Mr. David B. Lett
Ex. 1004:	Certified File History of U.S. Pat. No. 7,861,260
Ex. 1005:	Excerpts from Case Docket of <i>Meta Platforms Inc. v. AlmondNet Inc. et al.</i> , IPR2022-00773 (March 28, 2022)
Ex. 1006:	U.S. Pat. App. Pub. No 2007/0283384 (“Haeuser”)
Ex. 1007:	Annotated Version of U.S. Pat. App. Pub. No. 2008/0113674 (“Baig”)
Ex. 1008:	U.S. Prov. Pat. App. No. 60/858,204 (“Baig Provisional”)
Ex. 1009:	Redline document showing differences between Baig (Ex. 1040) and Baig Provisional (Ex. 1008)
Ex. 1010:	--
Ex. 1011:	U.S. Pat. App. Pub. No. 2006/0128364 (“Costa”)
Ex. 1012:	Excerpts from E. D. Zwicky et al., <i>Building Internet Firewalls</i> (2d ed. 2000) (“Zwicky”)
Ex. 1013:	U.S. Pat. App. Pub. No. 2004/0076180 (“Satapati”)
Ex. 1014:	U.S. Pat. App. Pub. No. 2006/0271690 (“Banga690”)
Ex. 1015:	Independent Claim Comparison Chart for U.S. Pat. No. 7,861,260
Ex. 1016:	U.S. Pat. App. Pub. No. 2008/0201731 (“Howcroft”)
Ex. 1017:	U.S. Pat. App. Pub. No. 2007/0025306 (“Cox”)
Ex. 1018:	Korean Pat. App. Pub. No. 2006-0065969 (“Han”)
Ex. 1019:	Certified Translation of Korean Pat. Pub. App. No. 2006-0065969 (“Han”)

- Ex. 1020: U.S. Pat. App. Pub. No. 2007/0180147 (“Leigh”)
- Ex. 1021: U.S. Pat. App. Pub. No. 2003/0083938 (“Smith”)
- Ex. 1022: U.S. Pat. App. Pub. No. 2006/0274741 (“Wing”)
- Ex. 1023: U.S. Pat. App. Pub. No. 2002/0124050 (“Middeljans”)
- Ex. 1024: U.S. Pat. App. Pub. No. 2005/0096980 (“Koningstein”)
- Ex. 1025: U.S. Pat. App. Pub. No. 2008/0263633 (“Banga633”)
- Ex. 1026: U.S. Pat. No. 6,415,322 (“Jaye”)
- Ex. 1027: U.S. Pat. App. Pub. No. 2003/0066085 (“Boyer”)
- Ex. 1028: U.S. Pat. App. Pub. No. 2006/0230427 (“Kunkel”)
- Ex. 1029: U.S. Pat. App. Pub. No. 2007/0217436 (“Markley”)
- Ex. 1030: U.S. Pat. App. Pub. No. 2002/0145621 (“Nguyen”)
- Ex. 1031: U.S. Pat. No. 6,543,052 (“Ogasawara”)
- Ex. 1032: U.S. Pat. No. 6,282,548 (“Burner”)
- Ex. 1033: U.S. Pat. No. 6,036,601 (“Heckel”)
- Ex. 1034: U.S. Pat. App. Pub. No. 2005/0096978 (“Black”)
- Ex. 1035: Request for Comments: 1631, “The IP Network Address Translator (NAT)” (1994) (“RFC 1631”)
- Ex. 1036: Hagel *et al.*, *Net Worth: Shaping Markets When Customers Make the Rules* (1999)
- Ex. 1037: Zeff *et al.*, *Advertising on the Internet* (2nd ed. 1999) (“Zeff”)
- Ex. 1038: U.S. Pat. No. 8,280,758 (“the ’758 Patent”)
- Ex. 1039: Request for Comments: 793, “Transmission Control Protocol” (1981) (“RFC 793”)
- Ex. 1040: U.S. Pat. App. Pub. No. 2008/0113674 (“Baig”)

- Ex. 1041: Excerpts from *AlmondNet, Inc. v. Freewheel Media, Inc.*, No. 1:23-cv-00220-MN (D. Del.) (“Corresponding District Court Litigation”)
- Ex. 1042: U.S. Pat. No. 9,036,981 (“Barton”)
- Ex. 1043: U.S. Pat. No. 7,634,789 (“Gerba”)
- Ex. 1044: U.S. Pat. App. Pub. No. 2002/0174444 (“Gatto”)
- Ex. 1045: U.S. Pat. App. Pub. No. 2002/0083445 (“Flickinger”)
- Ex. 1046: U.S. Pat. App. Pub. No. 2008/0040742 (“Howcroft742”)
- Ex. 1047: Jakob Nielsen, *Request Marketing* (Oct. 2000), <https://www.nngroup.com/articles/request-marketing/>
- Ex. 1048: Bettina Fabos, *The Commercial Search Engine Industry and Alternatives to the Oligopoly* (Mar. 2006) EastBound Journal
- Ex. 1049: Susan Young, *Getting the Message: How the Internet is Changing Advertising* (May 16, 2000), <https://hbswk.hbs.edu/item/getting-the-message-how-the-internet-is-changing-advertising>
- Ex. 1050: U.S. Pat. App. Pub. No. 2002/0099842 (“Jennings”)
- Ex. 1051: U.S. Pat. App. Pub. No. 2002/0123928 (“Eldering928”)
- Ex. 1052: Request for Comments: 2663, “IP Network Address Translator (NAT) Terminology and Considerations” (1999) (“RFC 2663”)
- Ex. 1053: ANSI/IEEE Std 802.11, 1999 Edition, “Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications”
- Ex. 1054: Excerpts from Harley Hahn, *The Internet Complete Reference* (2d ed. 1996) (“Hahn”)
- Ex. 1055: U.S. Pat. App. Pub. No. 2005/0108418 (“Bedi”)
- Ex. 1056: U.S. Pat. App. Pub. No. 2004/0177147 (“Joshi”)

- Ex. 1057: Excerpts from Downing *et al.*, *Dictionary of Computer and Internet Terms* (8th ed. 2003)
- Ex. 1058: Excerpts from Newton, *Newton's Telecom Dictionary* (21st ed. 2005)
- Ex. 1059: Declaration of Dr. Sylvia Hall-Ellis
- Ex. 1060: Institution Decision from *Meta Platforms, Inc. f/k/a Facebook, Inc. v. Intent IQ, LLC et al.*, IPR2023-01281, Paper 7 (February 21, 2024)
- Ex. 1061: U.S. Pat. No. 6,427,170 (“Sitaraman”)
- Ex. 1062: Transcript of March 10, 2025 Deposition of Erik de la Iglesia
- Ex. 1063: Declaration of Dr. David B. Lett in Support of Petitioner’s Reply to Patent Owner Response
- Ex. 1064: U.S. Pat. No. 6,745,223 (“Nobakht”)
- Ex. 1065: U.S. Pat. No. 8,640,176 (“Howcroft176”)
- Ex. 1066: U.S. Pat. No. 8,619,136 (“Howarter”)
- Ex. 1067: U.S. Pat. App. Pub. No. 2001/0039658 (“Walton”)
- Ex. 1068: U.S. Pat. App. Pub. No. 2002/0044103 (“Paulson”)
- Ex. 1069: U.S. Pat. No. 5,539,822 (“Lett822”)
- Ex. 1070: U.S. Pat. No. 5,771,064 (“Lett064”)
- Ex. 1071: Canadian Pat. No. 2,501,107C (“Robertson”)
- Ex. 1072: Patent Cooperation Treaty App. Pub. No. WO2004/047457A2 (“Russ”)
- Ex. 1073: U.S. Pat. No. 7,809,154 (“Lienhart”)
- Ex. 1074: European Pat. No. 1415471A1 (“Duffield”)
- Ex. 1075: U.S. Pat. No. 7,792,756 (“Plastina”)
- Ex. 1076: U.S. Pat. App. Pub. No. 2008/0288993 (“Aghasaryan”)

Ex. 1077: U.S. Pat. App. Pub. No. 2008/0235590 (“Krantz”)