

Disney Media and Entertainment Distribution, LLC
v.
Digital Media Technology Holdings, LLC

Petitioner's Presentation For IPR2024-00736
U.S. Patent No. 7,574,725
July 9, 2025

Overview

- Alleged Invention
- Overview of the Prior Art
- Claim Construction Issues
- Grounds 1 and 2 – Garfinkle, Kosten, Allen
- Grounds 3 and 4 – Allen, Budow, Kosten
- No Secondary Considerations
- Motion to Exclude

Overview

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'725 patent's system: system for marketing and distributing multimedia content

US007574725B2

(12) **United States Patent**
Siliadis

(10) **Patent No.:** **US 7,574,725 B2**
(45) **Date of Patent:** **Aug. 11, 2009**

(54) **MULTIMEDIA MARKETING AND DISTRIBUTION SYSTEM**

(75) Inventor: **Nicholas Siliadis**, 434 Queen Street, East, Toronto (CA) M5A 1T5

(73) Assignee: **Nicholas Siliadis**, Toronto (CA)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 557 days.

(21) Appl. No.: **09/840,283**

(22) Filed: **Apr. 23, 2001**

(65) **Prior Publication Data**
US 2002/0059611 A1 May 16, 2002

Related U.S. Application Data
(60) Provisional application No. 60/201,118, filed on May 2, 2000.

(51) Int. Cl. **H04N 7/13** (2006.01)
H04N 7/16 (2006.01)

(52) U.S. Cl. **725/91; 725/105; 725/114; 725/144**

(58) **Field of Classification Search** **725/143, 725/145, 36; 705/10**
See application file for complete search history.

(56) **References Cited**
U.S. PATENT DOCUMENTS
5,412,416 A * 5/1995 Nemirofsky 725/36
5,564,043 A * 10/1996 Siefert 707/103 R
5,661,517 A * 8/1997 Budow et al.
5,918,213 A * 6/1999 Bernard et al. 705/26
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6,038,367 A * 3/2000 Abecassis 386/46
6,038,545 A * 3/2000 Mandelberg et al. 705/15
6,141,530 A * 10/2000 Rabowsky 725/116
6,233,523 B1 * 5/2001 Sood 701/213

(57) **ABSTRACT**
A central server having a computer readable storage media for storing multimedia material, such as motion pictures and television programming, in digital format is connected to a communications network such as the Internet. Exhibitors, such as theaters and television stations, can access the central server, preview available programming, verify the ownership of such material, review contract provisions for obtaining and paying for the desired programming, and download the programming along with marketing materials for the program or movie. The central server loads material onto the storage media as it is received from producers and owners of such material. In addition, central server retains data regarding requests for material, such as titles requested, who requested such, and where the requesters are located geographically. This information can be used to help producers market their material more economically.

23 Claims, 10 Drawing Sheets

1. Field of the Invention

The present invention relates to the marketing and distribution of multimedia material, including digitally generated film, video, graphics and audio, and analogues traditional media converted into digital movie and television programs, and associated marketing materials for distribution over a computer network to exhibitors and broadcasters.

Demonstrative Exhibit Not Evidence

Ex-1001 at Cover, 1:2-25

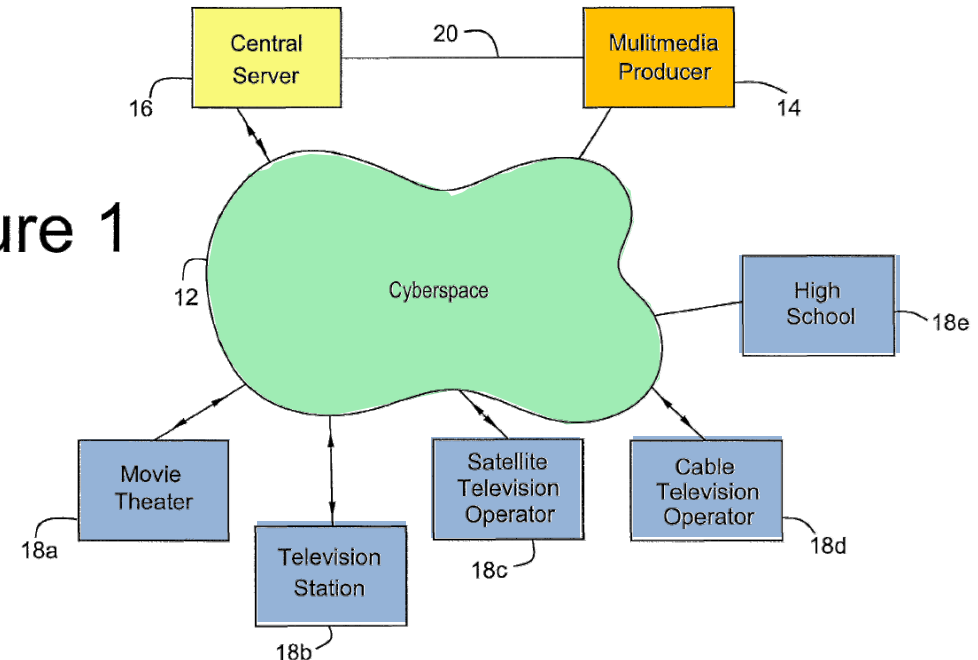
'725 patent's system: system for marketing and distributing multimedia content

The invention claimed is:

1. A method of marketing and distributing multimedia, the method comprising:

- a. receiving, by a server, multimedia material and advertising material from a producer or owner of said multimedia material, said advertising material being associated with said multimedia material, said advertising material comprising audio and video components;
- c. providing a server system accessible over a communication network, said server system accessing said correlated information in a digital format from said computer readable storage medium for transfer of said correlated information in a digital format over said communication network to potential purchasers;
- g. wherein said purchaser is an exhibitor exhibiting said multimedia material, after deriving said multimedia material from said stored correlated information in a digital format corresponding to said multimedia material, in a public theater to a number of individuals in exchange for a paid admission or a broadcast exhibitor, said advertising material, after deriving of said advertising material from said correlated information in a digital format corresponding to said stored associated advertising material, being shown to the public at a time or in a

Figure 1

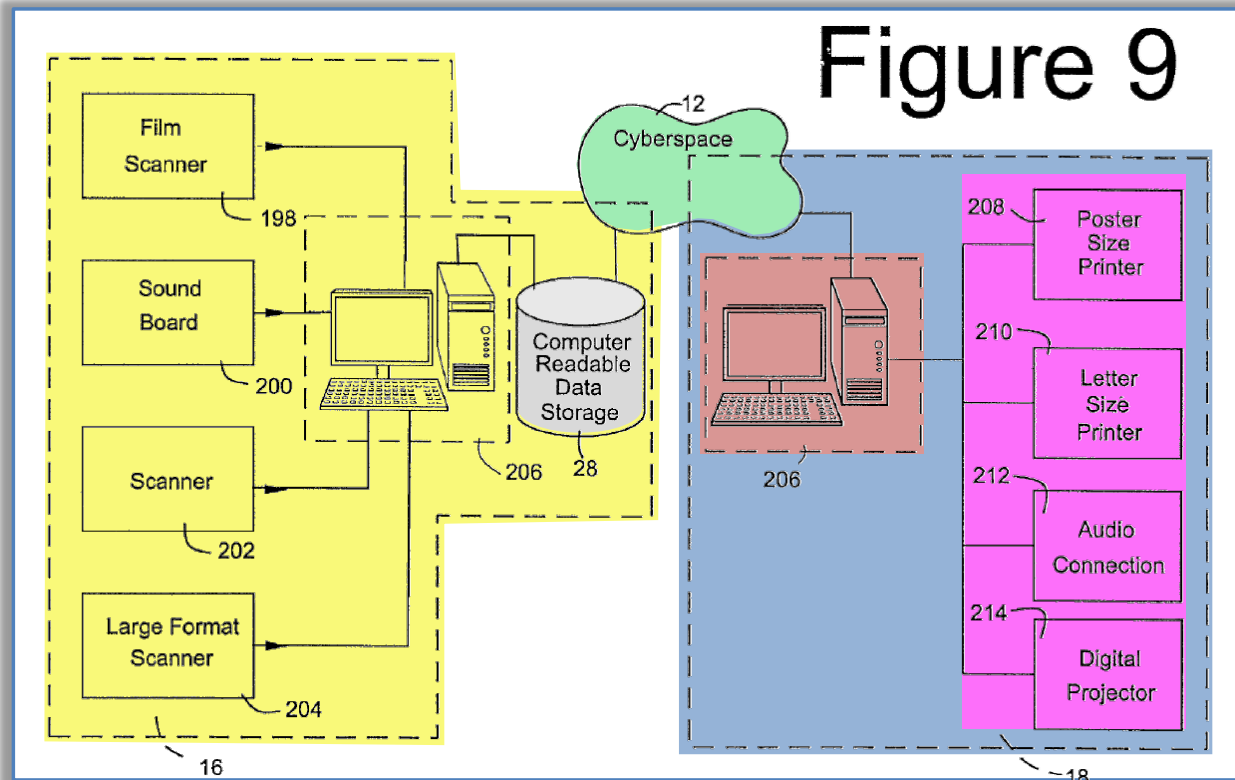


Demonstrative Exhibit Not Evidence

Ex-1001, Figure 1, Claim 1

'725 patent's system: system for marketing and distributing multimedia content

- b. storing said multimedia material and associated advertising material on a computer readable storage medium as correlated information in digital format;
- d. providing samples of said correlated information in a digital format from said server system over said communication network to said potential purchasers, said purchasers being linked to the server system through said communication network;
- e. downloading to said purchasers, upon request of said purchasers, over said communication network, said correlated information in a digital format corresponding to said multimedia material from said server system, said purchasers storing downloaded correlated information in a digital format corresponding to said multimedia material; and
- f. providing said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material to said purchasers from said server system over said communication network, allowing purchasers to locally market and sell said multimedia material, said purchasers downloading said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material, said purchasers storing the downloaded correlated information in a digital format corresponding to said advertising material; and



Demonstrative Exhibit Not Evidence

Ex-1001, Figure 9, Claim 1

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Instituted Grounds

Institution decision:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1, 4–7, 9	103(a)	Garfinkle and Kosten
11	103(a)	Garfinkle, Kosten, and Allen
1, 4, 6–7, 9, 11	103(a)	Allen and Budow
4*	103(a)	Allen, Budow, and Kosten

*There is a typo in the DI table – Ground 4 challenges claim 5, not claim 4

Garfinkle – Ex-1005

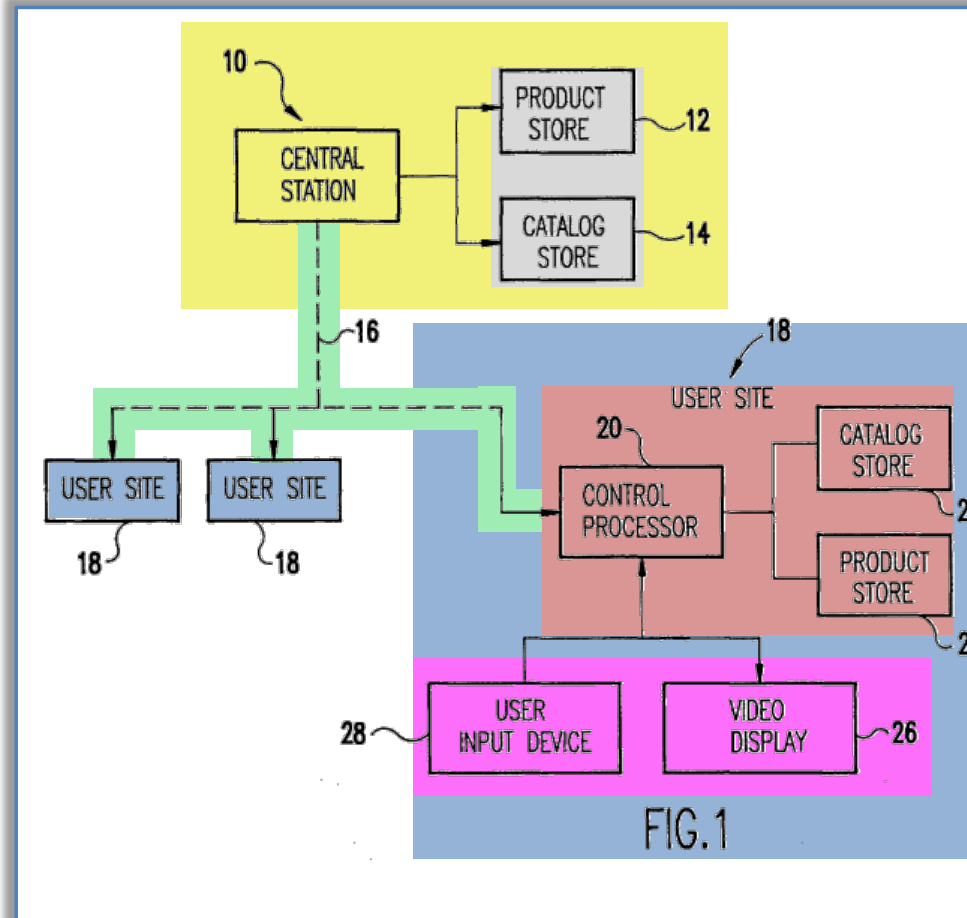
The invention claimed is:

1. A method of marketing and distributing multimedia, the method comprising:

a. receiving, by a server, multimedia material and advertising material from a producer or owner of said multimedia material, said advertising material being associated with said multimedia material, said advertising material comprising audio and video components;

c. providing a server system accessible over a communication network, said server system accessing said correlated information in a digital format from said computer readable storage medium for transfer of said correlated information in a digital format over said communication network to potential purchasers;

g. wherein said purchaser is an exhibitor exhibiting said multimedia material, after deriving said multimedia material from said stored correlated information in a digital format corresponding to said multimedia material, in a public theater to a number of individuals in exchange for a paid admission or a broadcast exhibitor, said advertising material, after deriving of said advertising material from said correlated information in a digital format corresponding to said stored associated advertising material, being shown to the public at a time or in a



b. storing said multimedia material and associated advertising material on a computer readable storage medium as correlated information in digital format;

d. providing samples of said correlated information in a digital format from said server system over said communication network to said potential purchasers, said purchasers being linked to the server system through said communication network;

e. downloading to said purchasers, upon request of said purchasers, over said communication network, said correlated information in a digital format corresponding to said multimedia material from said server system, said purchasers storing downloaded correlated information in a digital format corresponding to said multimedia material; and

f. providing said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material to said purchasers from said server system over said communication network, allowing purchasers to locally market and sell said multimedia material, said purchasers downloading said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material, said purchasers storing the downloaded correlated information in a digital format corresponding to said advertising material; and

Kosten – Ex-1007

The invention claimed is:

1. A method of marketing and distributing multimedia method comprising:

a. receiving, by a server, multimedia material and advertising material from a producer or owner of said multimedia material, said advertising material being associated with said multimedia material, said advertising material comprising audio and video components;

c. providing a server system accessible over a communication network, said server system accessing said correlated information in a digital format from said computer readable storage medium for transfer of said correlated information in a digital format over said communication network to potential purchasers;

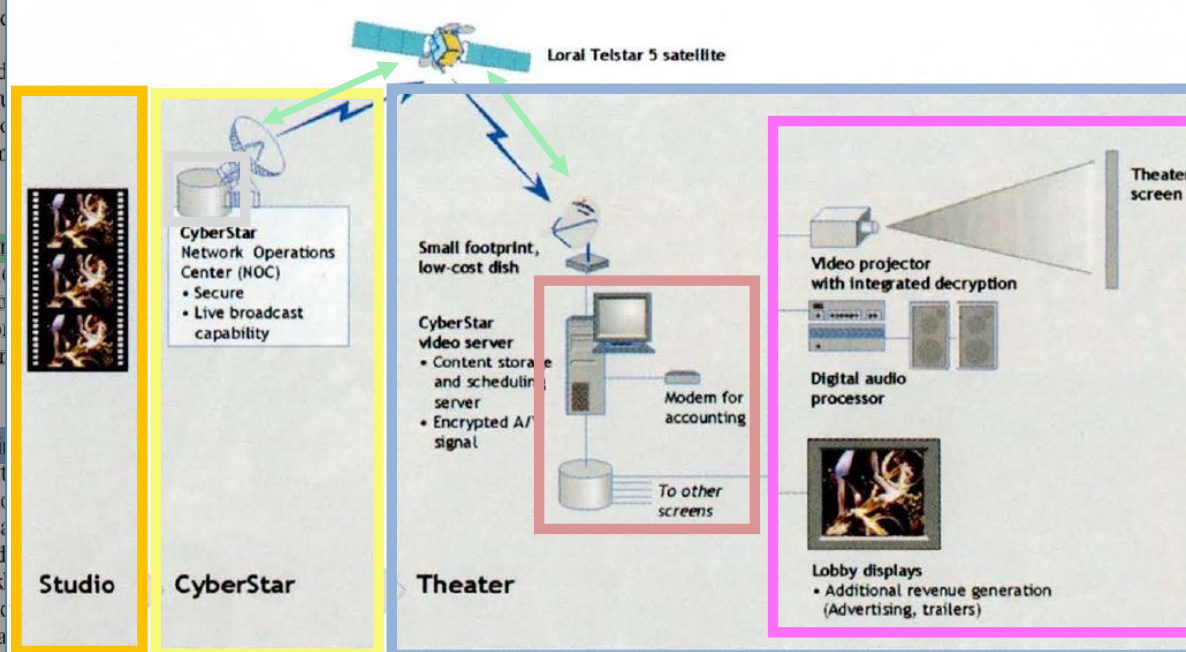
g. wherein said purchaser is an exhibitor exhibiting multimedia material, after deriving said multimedia material from said stored correlated information in a digital format corresponding to said multimedia material, in a public theater to a number of individuals in exchange for a paid admission or a broadcast exchange said advertising material, after deriving said advertising material from said correlated information in a digital format corresponding to said stored associated advertising material, being shown to the public at a time

b. storing said multimedia material and associated advertising material on a computer readable storage medium associated with said correlated information in digital format;

providing samples of said correlated information in a digital format from said server system over said communication network to said potential purchasers, said purchasers being linked to the server system through said communication network;

downloading to said purchasers, upon request of said purchasers, over said communication network, said correlated information in a digital format corresponding to said multimedia material from said server system, said purchasers storing downloaded correlated information in a digital format corresponding to said multimedia material; and

displaying said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material to said purchasers in said server system over said communication network, allowing purchasers to locally market and sell said multimedia material, said purchasers downloading said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material, said purchasers storing the downloaded correlated information in a digital format corresponding to said advertising material; and



FROM STUDIO TO SATELLITE TO A THEATRE NEAR YOU.

Allen – Ex-1006

The invention claimed is:

1. A method of marketing and distributing multimedia, the method comprising:

a. receiving, by a server, multimedia material and advertising material from a producer or owner of said multimedia material, said advertising material being associated with said multimedia material, said advertising material comprising audio and video components;

c. providing a server system accessible over a communication network, said server system accessing said correlated information in a digital format from said computer readable storage medium for transfer of said correlated information in a digital format over said communication network to potential purchasers;

g. wherein said purchaser is an exhibitor exhibiting said multimedia material, after deriving said multimedia material from said stored correlated information in digital format corresponding to said multimedia material, in a public theater to a number of individuals in exchange for a paid admission or a broadcast exhibit said advertising material, after deriving of said advertising material from said correlated information in a digital format corresponding to said stored associated advertising material, being shown to the public at a time or in

b. storing said multimedia material and associated advertising material on a computer readable storage medium correlated information in digital format;

providing samples of said correlated information in a digital format from said server system over said communication network to said potential purchasers, said purchasers being linked to the server system through said communication network;

downloading to said purchasers, upon request of said purchasers, over said communication network, said correlated information in a digital format corresponding to said multimedia material from said server system, said purchasers storing downloaded correlated information in a digital format corresponding to said multimedia material; and

providing said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material to said purchasers from said server system over said communication network, allowing purchasers to locally market and sell said multimedia material, said purchasers downloading said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material, said purchasers storing the downloaded correlated information in a digital format corresponding to said advertising material; and

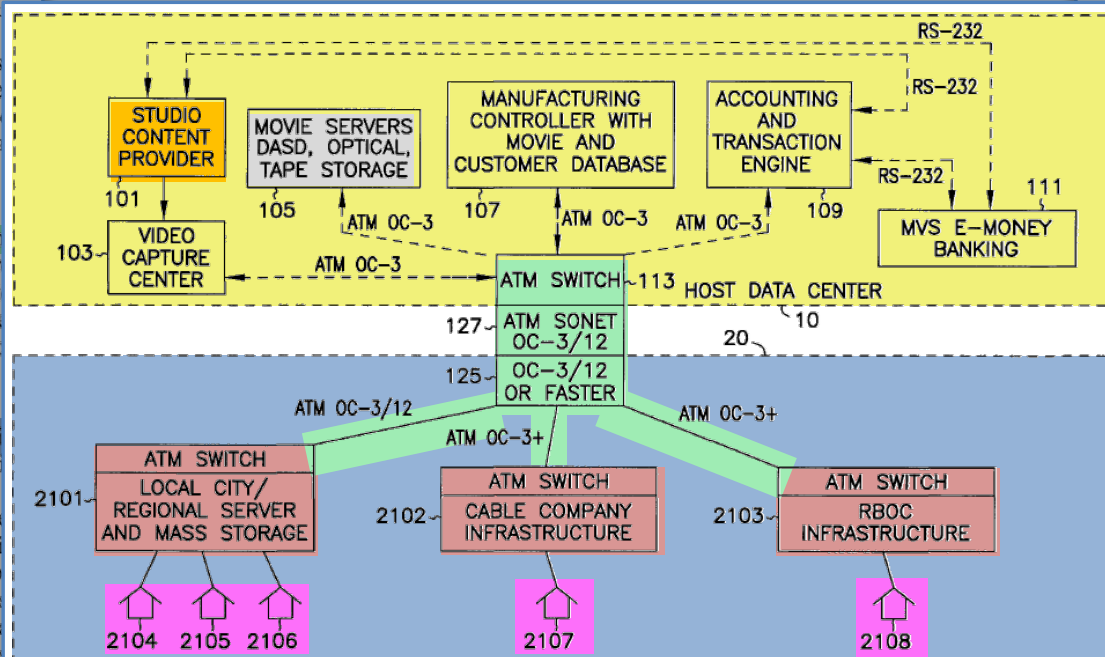


FIG. 21

Overview

- Alleged Invention
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- **Claim Construction Issues**
- Grounds 1 and 2 – Garfinkle, Kosten, Allen
- Grounds 3 and 4 – Allen, Budow, Kosten
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- Motion to Exclude

Claim construction issues – terms identified by PO

- “marketing”
- “distribution”
- “storing”
- “exhibitor”
- “broadcast exhibitor”
- “exhibition”

PO did not provide support for its claim constructions

Institution Decision:

² While we adopt Petitioner's proposed construction for the purposes of our Decision on Institution, we caution the parties that, as always, our conclusion is not dispositive and may change in response to further development of the record. Future briefing should contain detailed support, both intrinsic and, to the extent necessary, extrinsic, for any claim construction proposed. Any party proposing to construe a term according to its "plain and ordinary meaning" should specify what that meaning is.

PO has not provided sufficient, let alone detailed, intrinsic or extrinsic support for its proposed constructions in its papers.

PO's position appears based on an erroneously narrow definition of skill in the art

Petitioner Reply:

In its Response, PO claims it is applying a level of skill that is “substantially the same as that previously adopted by the Board.” POR at 11; Paper 15 (“DI”) at 9. However, there appears to be a dispute regarding the level of skill because PO repeatedly strays from its proposal, instead viewing the prior art and ’725 Patent “as understood in the entertainment field,” “field of film distribution,” “film industry,” “multimedia film business,” or the “film business.” See POR at 52-54, 18, 20-21.

PO appears to argue, in fact, for the level of skill it proposed in its Preliminary Response, which the Board rejected for failing to account for the technical aspects of the patent. DI at 8-9 (quoting Paper 8 (“POPR”) at 13; Ex-1001, 1:20-25).

A POSITA is not limited to one “in the film industry.”

The Board's applied level of skill from the institution decision is correct

Institution decision:

experimentation. We disagree with Patent Owner that one of ordinary skill in the art need not have a technical degree.

Accordingly, for purposes of this Decision, we adopt the following definition of the level of skill for one of ordinary skill in the art: a Bachelor of Science degree in electrical engineering, computer engineering, computer science, or a related field plus one year of experience related to marketing and distribution of multimedia material over a computer network, or the equivalent. We view this definition as consistent with the '725 patent and the asserted prior art, and we apply it in our analysis below.

A POSITA is not limited to one “in the film industry.”

“Marketing”

The invention claimed is:

1. A method of marketing and distributing multimedia, the method comprising:

a. receiving, by a server, multimedia material and advertising material from a producer or owner of said multimedia material, said advertising material being associated with said multimedia material, said advertising material comprising audio and video components;

f. providing said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material to said purchasers from said server system over said communication network, allowing purchasers to locally market and sell said multimedia material, said purchasers downloading said correlated information in a digital format corresponding to said advertising material that is associated with said multimedia material, said purchasers storing the downloaded correlated information in a digital format corresponding to said advertising material; and

- Not limited to “film” – PO position, POR at 10

The present invention relates to the marketing and distribution of multimedia material, including digitally generated film, video, graphics and audio, and analogues traditional media converted into digital movie and television programs,

- Not limited to “generation of sales” – PO position, POR at 40-41

sense for the purchase of a poster, radio spot, or the like. Older films and “B” movies may be available to some users, such as schools, libraries, and other non-profit organizations, and

“Marketing” : broad enough to encompass generally creating interest in a showing or broadcast of some multimedia content.

“Distribution”

The invention claimed is:

1. A method of marketing and distributing multimedia, the method comprising:

a. receiving, by a server, multimedia material and advertising material from a producer or owner of said multimedia material, said advertising material being associated with said multimedia material, said advertising material comprising audio and video components;

e. downloading to said purchasers, upon request of said purchasers, over said communication network, said correlated information in a digital format corresponding to said multimedia material from said server system, said purchasers storing downloaded correlated information in a digital format corresponding to said multimedia material; and

- Not limited to a particular “business” – PO position, POR at 10

Similarly, a plurality of exhibitors, including a movie theater 18a, a television station 18b, a satellite television operator 18c, a cable television operator 18d and a high school 18e,

- Claim does not include a negative limitation excluding file “downloading” – PO position, POR at 20
 - The claim specifically recites “downloading”

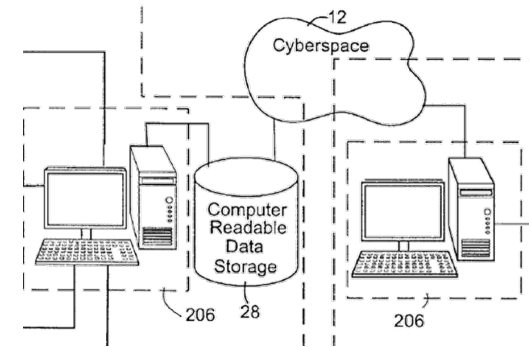
“Distribution” : broad enough to encompass the technical steps required for distribution recited in the claims and specification, including file “downloading”.

“Storing”

b. storing said multimedia material and associated advertising material on a computer readable storage medium as correlated information in digital format;

e. downloading to said purchasers, upon request of said purchasers, over said communication network, said correlated information in a digital format corresponding to said multimedia material from said server system, said purchasers storing downloaded correlated information in a digital format corresponding to said multimedia material; and

- Not limited to “a non-volatile storage element” – PO position, POR at 10



media 28. Once digitized media materials may be downloaded to user's computer 206 using an appropriate data storage media depending upon the size of the media to be downloaded. In particular, any selected material can be

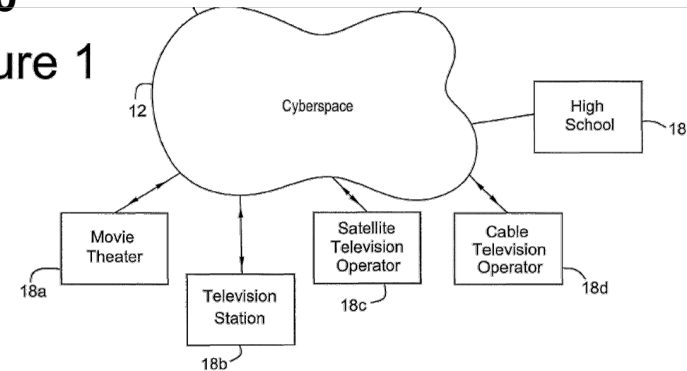
“Storing” : broad enough to encompass appropriate data storage media regardless of whether it is volatile or nonvolatile.

“Exhibitor”

g. wherein said purchaser is an exhibitor exhibiting said multimedia material, after deriving said multimedia material from said stored correlated information in a digital format corresponding to said multimedia material, in a public theater to a number of individuals in exchange for a paid admission or a broadcast exhibitor, said advertising material, after deriving of said advertising material from said correlated information in a digital format corresponding to said stored associated advertising material, being shown to the public at a time or in a

- Not limited to a particular “business” – PO position, POR at 10

Figure 1



Similarly, a plurality of exhibitors, including a movie theater 18a, a television station 18b, a satellite television operator 18c, a cable television operator 18d and a high school 18e,

films and “B” movies may be available to some users, such as schools, libraries, and other non-profit organizations, and

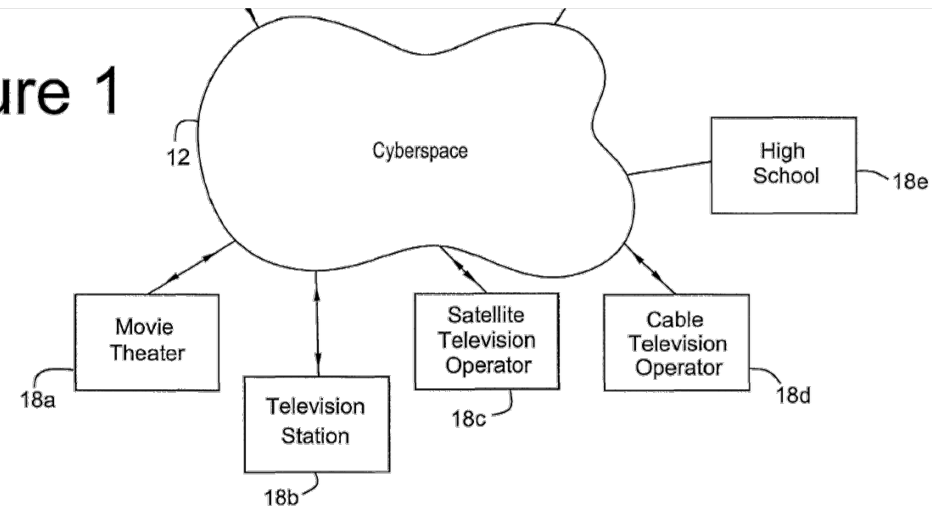
“Exhibitor” : broad enough to encompass all the exhibitors described in the specification.

“Broadcast Exhibitor”

g. wherein said purchaser is an exhibitor exhibiting said multimedia material, after deriving said multimedia material from said stored correlated information in a digital format corresponding to said multimedia material, in a public theater to a number of individuals in exchange for a paid admission or a broadcast exhibitor, said advertising material, after deriving of said advertising material from said correlated information in a digital format corresponding to said stored associated advertising material, being shown to the public at a time or in a

- Not limited to “over-the-air broadcasting” – PO position, POR at 10

Figure 1



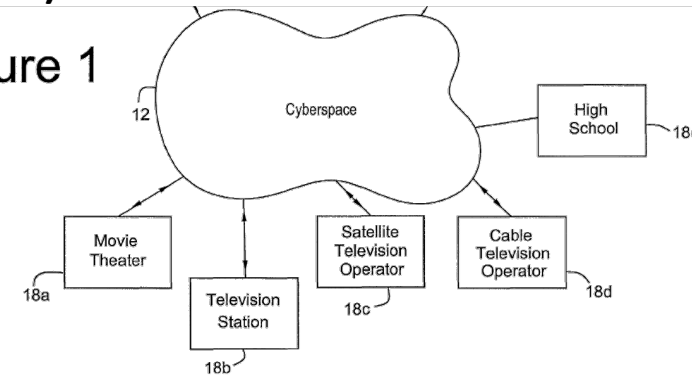
“Broadcast exhibitor” : broad enough to encompass various exhibitors that conduct broadcasting regardless of whether it is “over-the-air.”

“Exhibition”

5. The method of claim 1, wherein the exhibition of multimedia material is the public showing of a motion picture.

- An actual “exhibition” is not required by claim 1, only claim 5
- Claim 5 narrows the types of exhibitions that would otherwise be enabled by claim 1 (but not the types of “exhibitors”)

Figure 1

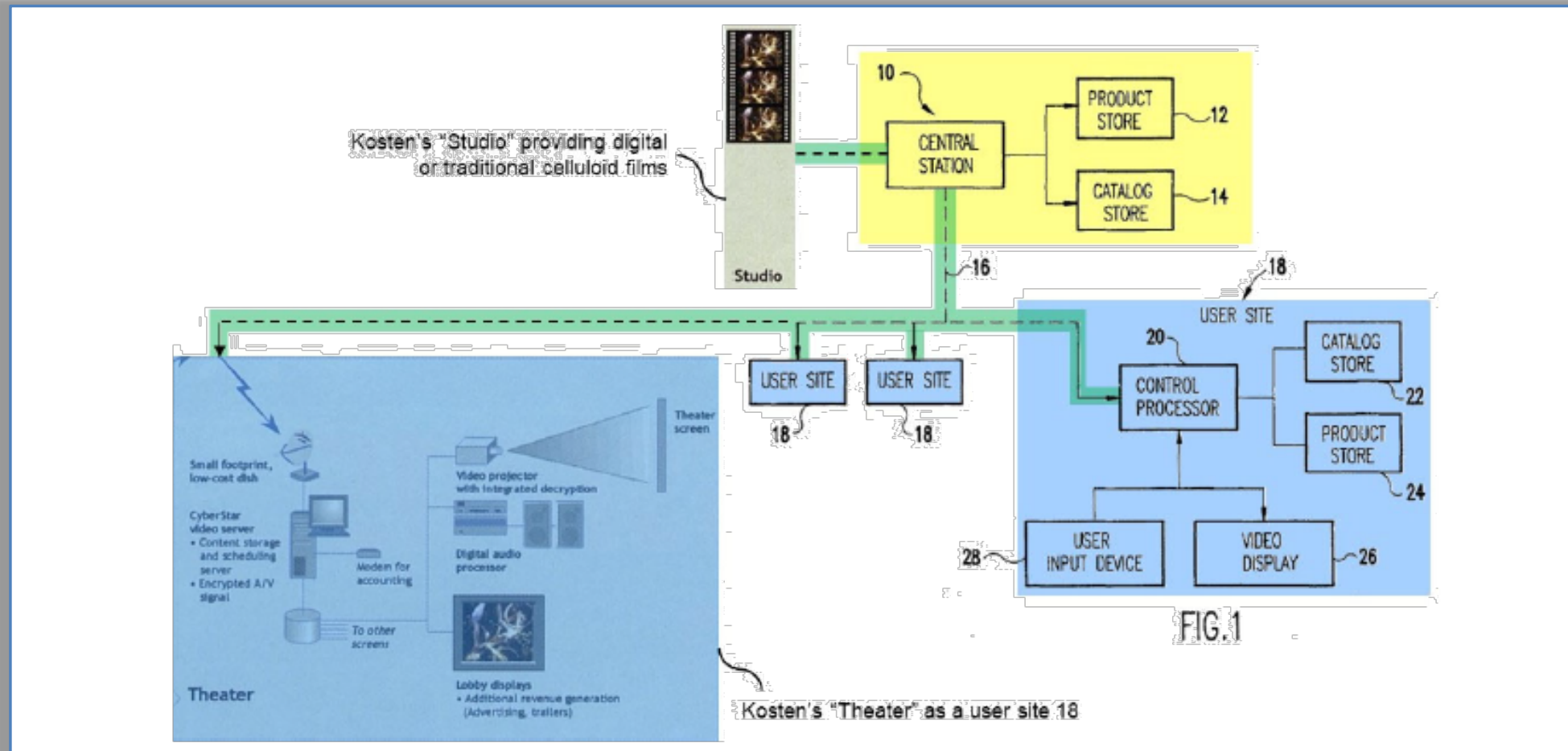


“Exhibition” : Claim 1’s “exhibitor” or “broadcast exhibitor” allows for both public showings (e.g., in a school or library) and private showings (e.g., in a home or hotel room), whereas Claim 5’s exhibition is specific to a “public showing.”

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- Grounds 3 and 4 – Allen, Budow, Kosten
- No Secondary Considerations
- Motion to Exclude

Combination: Garfinkle + Kosten (Ground 1)



Pet. at 16

Demonstrative Exhibit Not Evidence

Claim element 1[pre]

PO Position:

1[pre]: “A method of marketing and distributing multimedia...”

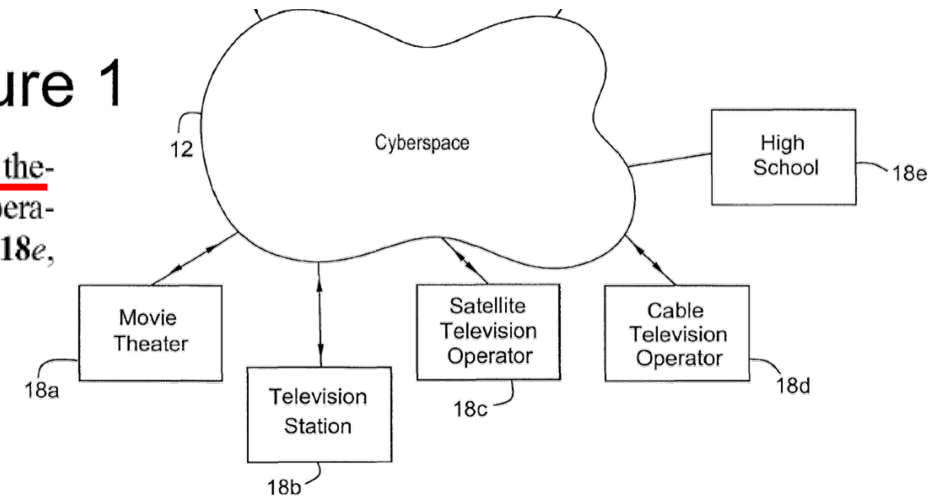
The preamble of Claim 1 is a clear reference to the film distribution business

FALSE

'725 Patent:

Figure 1

Similarly, a plurality of exhibitors, including a movie theater 18a, a television station 18b, a satellite television operator 18c, a cable television operator 18d and a high school 18e,



PO's argument is based on its improper claim construction, which fails for that reason alone.

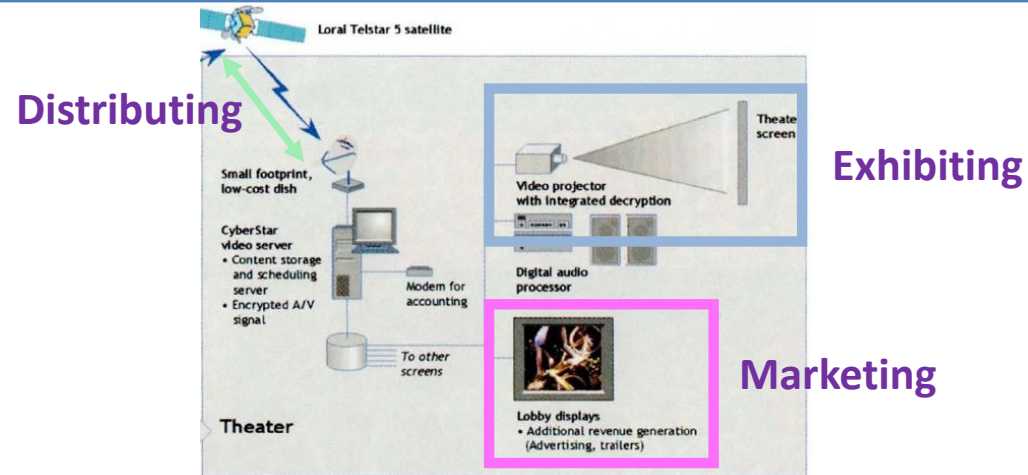
Claim element 1[pre]

PO Position:

Private VOD in Contrast to Public Exhibition in Theater or Broadcast

The Patent's field of film distribution, with its recited exhibition steps, is a world apart from Garfinkle's video-on-demand system servicing end-user viewers.

Kosten:



PO's argument focuses on Garfinkle, but ignores Kosten's teachings, which plainly include distribution to, marketing by, and exhibition in a public theater.

Demonstrative Exhibit Not Evidence

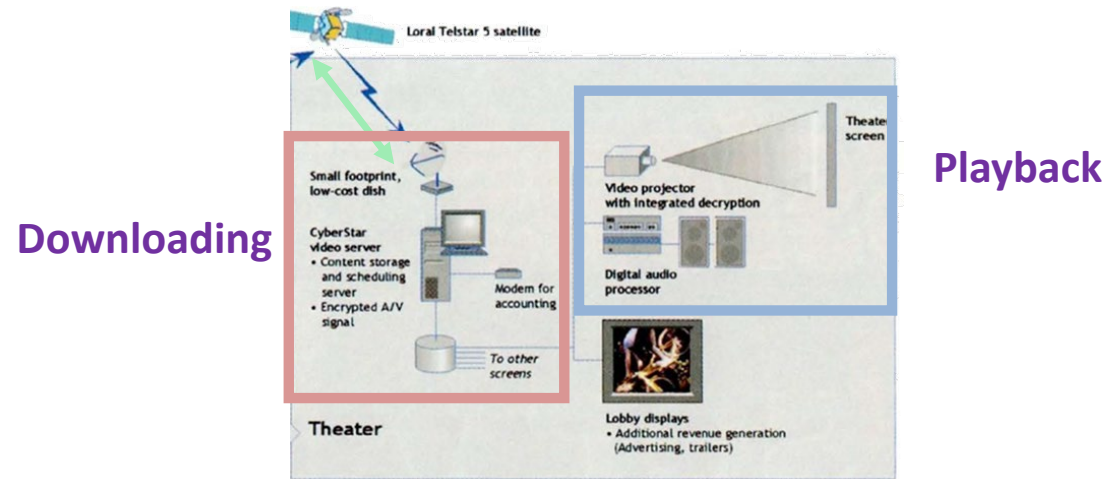
POR at 18; Reply at 9-11; Ex-1007 at 54

Claim element 1[e]

PO Position:

While Garfinkle's system can stream a multimedia film, the structure of Garfinkle does not enable the recipient to later playback the same to an exhibition audience.

Kosten:



PO's argument focuses on Garfinkle, but ignores Kosten's teachings, which plainly include digital downloading and storage for later playback.

Demonstrative Exhibit Not Evidence

POR at 18; Reply at 9-11; Ex-1007 at 54

Claim element 1[e]

PO attempts to distinguish Kosten based on features he did not invent

PO inventor,
Mr. Stiliadis:

Q It's fair to say that you didn't invent digital distribution of movies; correct?

A I never said I did.

Did you invent electronic delivery of movies to theaters?

A No.

Q And it's fair to say that you didn't invent the idea of digitizing analog film into a digital format; correct?

Q Did you invent digital projection?

A No.

MR. HANDAL: Objection; beyond the scope, calls for a legal conclusion, vague, objection to form.

THE WITNESS: No.

PO's inventor admits that he did not invent digital movie distribution and playback

Demonstrative Exhibit Not Evidence

Ex-1027, 67:22-23, 68:3-8, 84:11-4, 89:11-13, 90:1-2

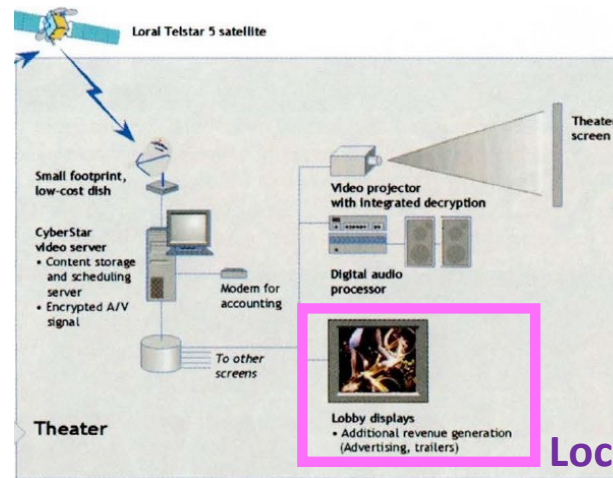
Claim element 1[f]

PO Position:

meet the recitations of, *inter alia*, paragraph 1f of Claim 1. There is no structure, software, or methodology disclosed in Kosten relating to allowing purchasers to locally market or sell the multimedia film.

FALSE

Kosten:



Local Marketing

Improved feature film distribution is only one of the many benefits ushered in by this distribution process. Exhibitors could turn theatre lobbies into smart advertising networks, targeting digital trailers and ad spots based on the demographic of their community and the film itself—no longer will they be stuck with standard trailers attached to each celluloid print. The film experience itself could evolve into interactive channels, where theatres could host “virtual chat sessions” between a film’s audience and its stars. Theatres could also fill their

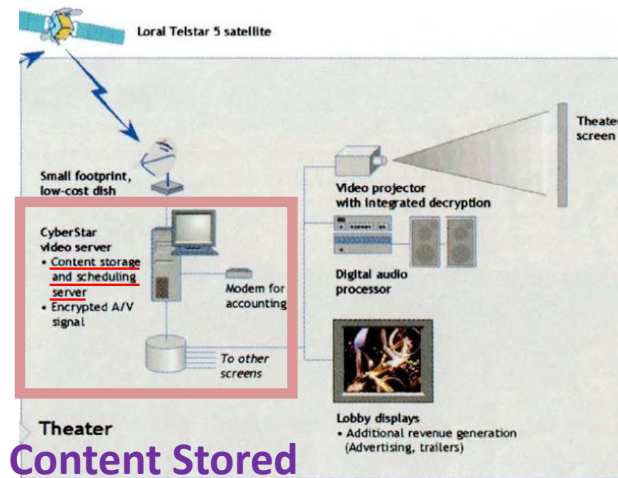
PO’s argument ignores Kosten’s teachings for local marketing.

Claim element 1[f]

PO Position:

fails to meet the recitations of Claim 1f. Kosten does not disclose whether any storage of advertising (if it might even possibly be interpreted to exist in the movie theater) is volatile, and thus not available for repeated use, or follows a different

Kosten:



all points of distribution. Exhibitors then simply project the file, which is received on their network server, stored, and routed to individual screens of their choice (within the boundaries of distribution agreements already set up between the studios and theatre owners).

PO's argument is both based on an erroneously narrow view of "storing" and ignores Kosten's teachings.

Claim element 1[g], PO essentially admits that Kosten discloses it

PO Position:

Accordingly, “trailers” would be understood to be shown at a time different from the time when the movie is being exhibited to customers. This is what the

Kosten:



Improved feature film distribution is only one of the many benefits ushered in by this distribution process. Exhibitors could turn theatre lobbies into smart advertising networks, targeting digital trailers and ad spots based on the demographic of their community and the film itself — no longer will they be stuck with standard trailers attached to each celluloid print. The film experience itself could evolve into interactive channels, where theatres could host “virtual chat sessions” between a film’s audience and its stars. Theatres could also fill their

PO’s argument ignores Kosten’s teachings related to trailers and lobby displays.

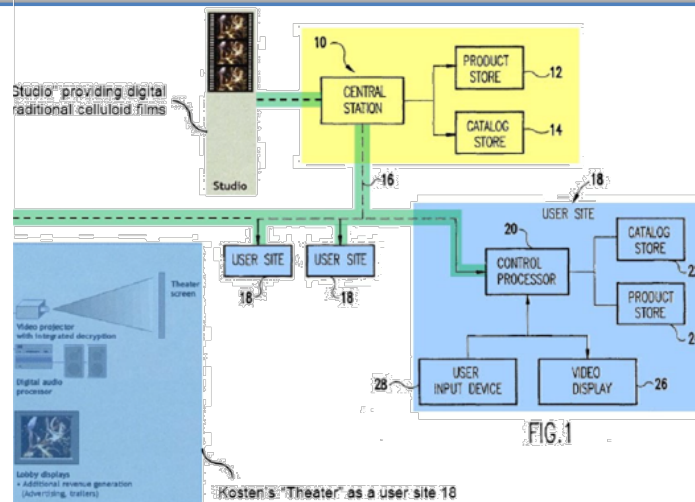
Dependent claim 4

PO Position:

The meaning of “a public communication system” is explicitly defined in the patent which states that the inventive “server system 15 [may be] accessible over a public communication system, such as the Internet.” Patent, 3:14-17. Neither

FALSE

Kosten:



In this specific embodiment of the invention, a suitable data link indicated by the dash line 16 connects the central station 10 to a plurality of user sites 18. The link 16 may be copper wire of the type used by the telephone company, a radio frequency wireless communications link of the type used in satellite-to-earth communications, a coaxial cable, a fiber optic cable, cellular wireless or other suitable link, such as a local area network interconnecting personal computers and work stations at the user sites and the processor at the central station. Preferably, data is downloaded from the

PO appears to use the claim term “public communications system” to exclude any form of communication network other than the Internet.

Demonstrative Exhibit Not Evidence

POR at 30; Reply at 16-17; Ex-1005 at 2:58-66

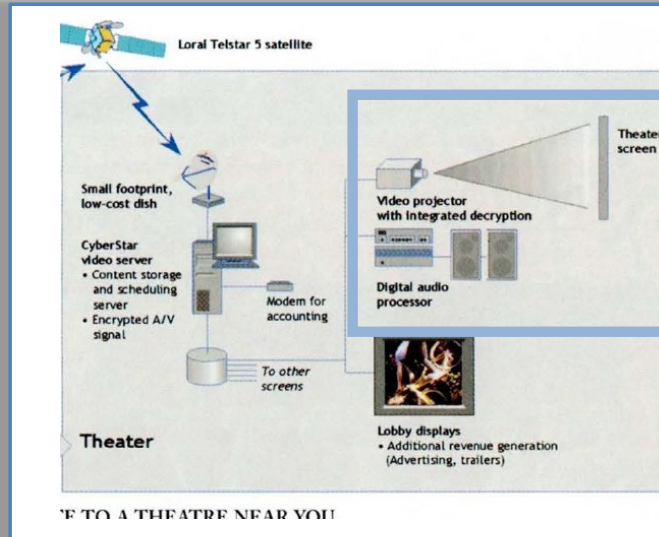
Dependent claim 5

PO Position:

material is the public showing of a motion picture.”

Garfinkle does not involve the exhibition of motion picture, but rather is in the field of video-on-demand delivering products to sites of end-users. When the

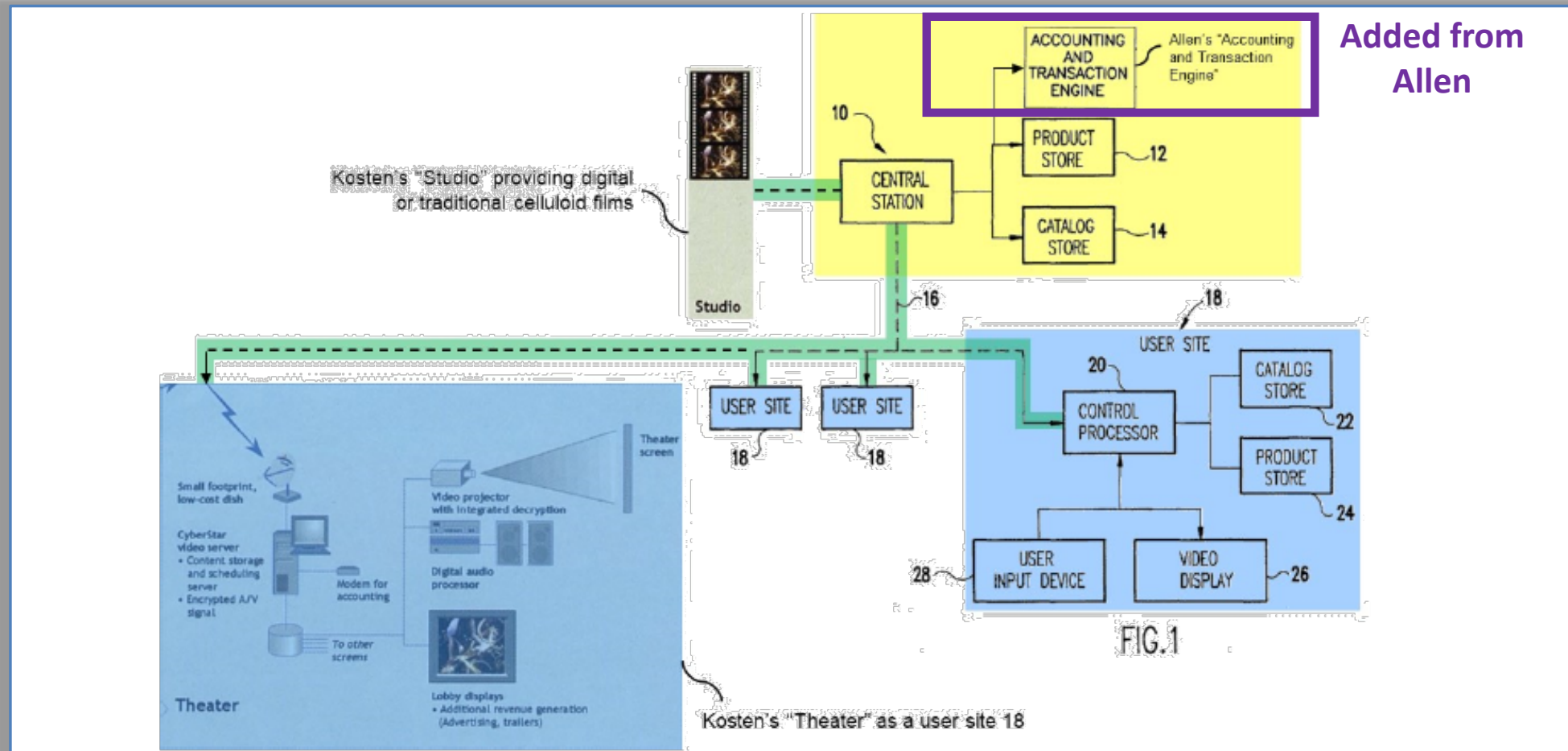
Kosten:



A digital film file is simply transferred to and stored in the secure server system of a satellite distribution company, which then “beams” the film to theatres across the U.S. or around the world, who then store it on their servers for later digital projection. By some estimates, this system can reduce film distribution costs by as much as 75 percent. The distribution process itself becomes flexible in ways never imagined. A

PO’s argument ignores Kosten’s teachings for public showings of a motion picture.

Combination: Garfinkle + Kosten + Allen (Ground 2)



Pet. at 43

Demonstrative Exhibit Not Evidence

Combinations: Garfinkle + Kosten + Allen (Ground 2)

'725 Claim 11

11. The method of marketing and distributing multimedia of claim 1, further comprising automatically collecting sales information from exhibitor recipients of various items of said multimedia material and providing sales and marketing data, specific to said items of multimedia material, to exhibitors based upon information from said exhibitors.

Added from Allen

Accounting and Transaction Engine

The accounting and transaction engine 109 of FIG. 1 is also connected to the retail outlet and to the other components of the host status center 10 through an ATM OC-3 fiber through ATM switch 113. All accounting and transaction information is recorded by the accounting and transaction engine 109 which also has external connections to allow electronic money banking. The accounting and transaction engine 109 accounts for each transaction at the retail level including revenue accounting, customer demographic information database, support inventories and the retail outlet financial accounting. The system also collects and maintains identification and demographic data for each customer which would include, by way of example and not by limitation, the name, address, home telephone number, preferred contact procedure, major credit card number and historical use profile information. This information would also include product type, use, frequency, date and time information and payment schedules. A voice identification

Dependent claim 11

PO Position:

Petitioner's reliance on Allen with respect to the recitation of providing sales and marketing data to exhibitors based upon information from the exhibitors, is nonsensical, because there are no exhibitors, and further because marketing data is

Kosten:

Improved feature film distribution is only one of the many benefits ushered in by this distribution process. Exhibitors could turn theatre lobbies into smart advertising networks, targeting digital trailers and ad spots based on the demographic of their community and the film itself—no longer will they be stuck with standard trailers attached to each celluloid print. The film experience itself could evolve into interactive channels, where theatres could host “virtual chat sessions” between a film’s audience and its stars. Theatres could also fill their

PO’s argument mischaracterizes Allen and ignores Kosten.

PO's "two-tier" marketing arguments are not grounded in the claims and ignore the prior art

PO Position:

This marketing *to* the middleman/purchaser/exhibitor is recited as
“providing samples of the correlated information... to... [exhibitor-]purchasers”
(claim 1(d)). In response to this first-tier marketing, the

Element 1[d]:

d. **providing samples** of said correlated information in a digital format from said server system over said communication network to said potential purchasers, said purchasers being linked to the server system through said communication network;

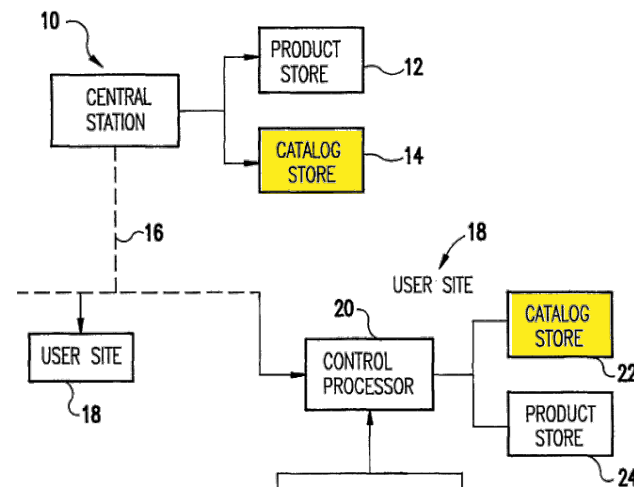
Element 1[d] says nothing about “marketing.”

PO's "two-tier" marketing arguments are not grounded in the claims and ignore the prior art

PO Position:

This marketing *to* the middleman/purchaser/exhibitor is recited as
“providing samples of the correlated information... to... [exhibitor-]purchasers”
(claim 1(d)). In response to this first-tier marketing, the

Garfinkle:



box 60. For each of the video products in product store 12, catalog data is prepared and stored in central station catalog store 14. This catalog data includes, for example, the product name, its address in the product store 12, its price, and for certain video products related material such as a trailer to allow the user to preview the product, a header to allow and hardware to perform a decompression function. A user input device 28 interacts with the catalog data and a menu presented on the video display to allow the user to use the catalog data stored in catalog store 22 to, in some cases, preview video products available from the central station 10, and to order any available video product in the catalog store.

PO ignores Garfinkle's express teachings to provide samples, trailers, and other materials to purchasers from its "catalog store."

Overview

- Alleged Invention
- Overview of the Prior Art
- Claim Construction Issues
- Grounds 1 and 2 – Garfinkle, Kosten, Allen
- Grounds 3 and 4 – Allen, Budow, Kosten
- No Secondary Considerations
- Motion to Exclude

Combination: Allen + Budow (Ground 3)

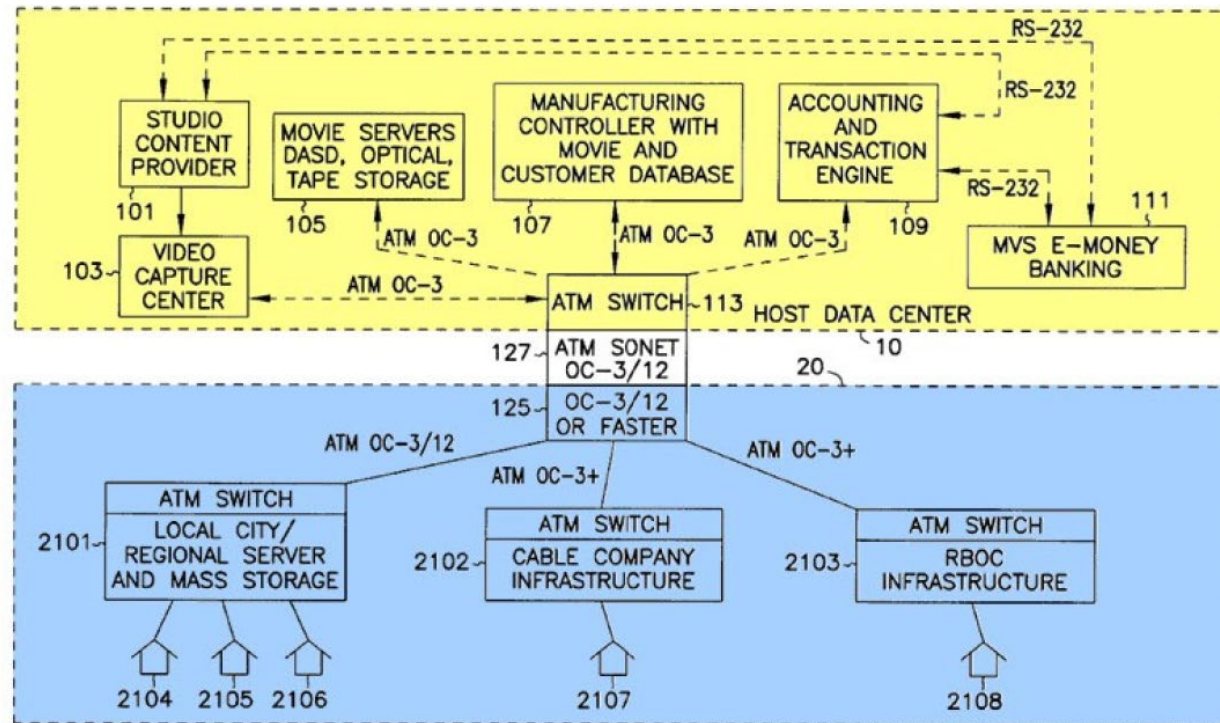


FIG. 21

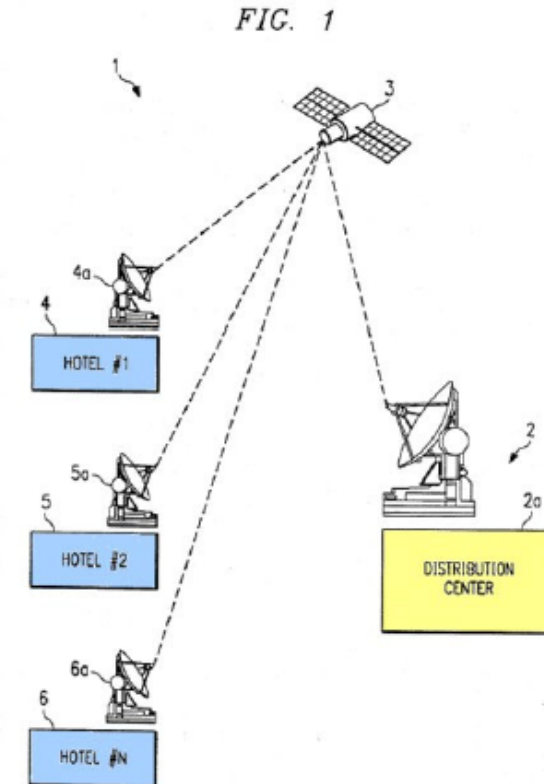


FIG. 1

PO's arguments for grounds 3 and 4 fail for substantially the same reasons

PO Position:

V. GROUNDS 3-4: ALLEN IN VIEW OF BUDOW AND KOSTEN

Budow is nothing to the combination of Kosten Allen which is not already shown in the combination of Garfinkle, Kosten and Allen. Accordingly, Petitioner's contentions are properly rejected.

Petitioner reply:

V. GROUNDS 3-4: ALLEN IN VIEW OF BUDOW AND KOSTEN

PO does not dispute that Allen, Budow, and Kosten disclose the limitations 1[a]-1[e] nor Claims 6-7 or 9 in its Response. *See* POR at 51-65.

A. PO's Arguments Are Unsupported

PO's arguments regarding limitations 1[pre] and 1[f]-[g] and Claims 4-5, and 11 depend on its incorrect understanding of the references and Petitioner's arguments, its blurring of lines between limitations, its unsupported constructions, and its view of these references in isolation rather than as proposed combinations.

Combination: Allen + Budow + Kosten (Ground 4)

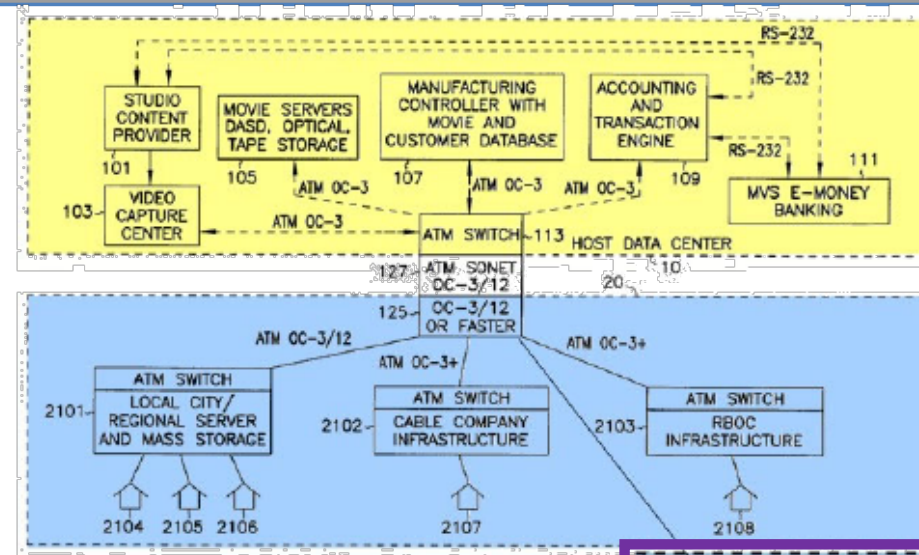
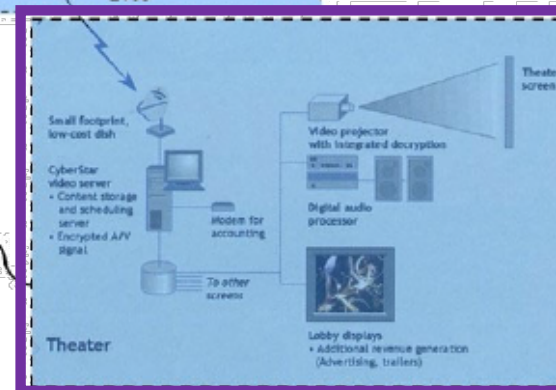


FIG. 21
(Annotated)

Kosten's Theater as a retail outlet 20



Kosten's movie theater exhibitor meets claim 5

Demonstrative Exhibit Not Evidence

Pet. at 74

Overview

- Alleged Invention
- Overview of the Prior Art
- Claim Construction Issues
- Grounds 1 and 2 – Garfinkle, Kosten, Allen
- Grounds 3 and 4 – Allen, Budow, Kosten
- **No Secondary Considerations**
- Motion to Exclude

To the extent that PO presents “secondary considerations” evidence, it fails

PO appears to sprinkle arguments that may be tangential to secondary considerations of non-obviousness throughout its Response. PO also submits a declaration from the named inventor (Ex-2109) attesting that his personal friends, who happened to be executives at a single film production laboratory, thought that the '725 Patent was impractical. POR at 9-10, 15-16, 31, 69-70. However, this is not evidence of skepticism by experts—or evidence of any other secondary consideration. Rather, the inventor’s declaration merely states that two executives, (not technical experts) told him (in a friendly conversation) that they did not believe his patent was practical or would be commercially successful.⁵ Ex-2109, ¶¶5, 7-8; Ex-1027, 86:14-87:1, 87:11-21 (“They didn’t have confidence in it.”). Meanwhile, other industry leaders *were* investing in digital cinema and having success. *See, e.g.*, Ex-1021; Ex-1024; Ex-1025; Ex-1026. But even to the extent that others had success with digital projection and electronic delivery of movies, Mr. Stiliadis conceded that he did not invent such technology. Ex-1027, 90:1-2, 84:11-13. And neither Mr. Stiliadis nor PO has offered any evidence to tie the alleged “skepticism” of these two personal friends of the inventor and later success of digital film distribution, such as the movie “Avatar,” to the claims of the '725 Patent. The inventor has never even asserted that any of the companies or entities in his declaration practiced his alleged invention.

Demonstrative Exhibit Not Evidence

Reply at 26-27

Overview

- Alleged Invention
- Overview of the Prior Art
- Claim Construction Issues
- Grounds 1 and 2 – Garfinkle, Kosten, Allen
- Grounds 3 and 4 – Allen, Budow, Kosten
- No Secondary Considerations
- Motion to Exclude

Neither Mr. Tulchin nor Mr. Daniels are POSITAs

Board Position:

Accordingly, for purposes of this Decision, we adopt the following definition of the level of skill for one of ordinary skill in the art: a Bachelor of Science degree in electrical engineering, computer engineering, computer science, or a related field plus one year of experience related to marketing and distribution of multimedia material over a computer network, or the equivalent. We view this definition as consistent with the '725 patent and the asserted prior art, and we apply it in our analysis below.

PO Position:

Patent Owner proposes the following level of skill for a POSITA: Bachelor of Science in electrical engineering, engineering physics, computer engineering, computer science, or a related field plus one year of experience related to marketing and distribution of multimedia material over a computer network, or the equivalent, which is believed to be substantially the same as that previously adopted by the Board.

Mr. Tulchin is not a POSITA because he lacks the requisite technical training

2 Q Okay. Can you tell me what your educational
3 background is.
4 A So I went to the Cornell School of Industrial
5 Labor Relations as an undergrad and received a BS in
6 industrial labor relations, and then I went to law
7 school at Hastings, which is now called the University
8 of California San Francisco, and received my law
9 degree in 1978.
10 Q Do you have any other advanced degrees?
11 A No.
12 Q Do you have any other professional
13 certifications?
14 A No.
15 Q Do you have -- do you have a technical
16 degree?
17 A No.
18 Q It's fair to say you don't have, for example,
19 a degree in electrical engineering, engineering
20 physics, computer engineering, computer science, or a
21 similar field?
22 A Absolutely not.

PO does not contest that Mr. Tulchin lacks a technical degree. PO even conceded that Mr. Tulchin's "declaration does not relate to any analysis through the lens of an ordinary skilled artisan."

Yet, PO ignores *Phillips* in contending that Mr. Tulchin's testimony is relevant to "the meaning of various terms in the movie business."

Demonstrative Exhibit Not Evidence

Ex-1028 at 10:2-22; PO Opp. to Motion to Exclude at 3, 5, 10

Phillips claim construction based on POSITA understanding

“We have made clear, moreover, that the ordinary and customary meaning of a claim term is **the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention**, i.e., as of the effective filing date of the patent application.”

“[T]he person of ordinary skill in the art is deemed to **read the claim term not only in the context of the particular claim** in which the disputed term appears, **but in the context of the entire patent, including the specification.**”

Phillips v. AWH Corp., 415 F.3d 1303, 1313 (Fed. Cir. 2005)

Mr. Daniels is not a POSITA because he lacks relevant experience

Q. Understood.

Can you tell me about some of the inventions?

A. Yeah, everything from a fogless shower mirror; an anti-backlashing fishing reel; a radiation shield for cell phones; a suite of interactive television innovations, which I actually spent quite a bit of time on. I created the first working pause button, demonstrated that around 1988, and then ultimately sold that to one of the largest global companies.

Q. And what company was that?

A. I can't disclose the company.

PO contends only that Mr. Daniels's "work has included being actively involved in 1998 ... in the invention of video pausing technology" but has not shown how this is "one year of experience related to marketing and distribution of multimedia over a computer network."

Have you ever been actively involved in the marketing and the distribution of multimedia material over a communication network?

A. On the invention side, certainly. That was the suite of patents that were sold.

Q. What was your role in -- in that -- I guess was it a company?

A. I did have a company. I can't even recall the name -- Intelisync, we called it. Tried to raise funds, but wasn't able to raise enough funds, so I ended up finding an outlet for the IP.

Q. Can you point me to that in your resum ?

A. If it's not there, I didn't include it, probably. It was just too distant and not relevant to this resum that I have. One of the reasons would be I was restricted by contract to not disclose the sale of those inventions.

Non-POSITA opinions are irrelevant to claim construction and technical analyses of prior art

“[T]o be qualified to offer expert testimony on issues from the vantage point of an ordinarily skilled artisan in a patent case, an expert must at a minimum possess ordinary skill in the art.”

Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n, 22 F.4th 1369, 1377-78 (Fed. Cir. 2022)

Mr. Tulchin's and Mr. Daniels's clear personal biases

Mr. Tulchin:

12 Did you have a relationship with
13 Mr. Stiliadis before he reached out to you in December
14 of last year?
15 A Yes.
16 Q Can you describe for me what that
17 relationship is.
18 A One second. Let me just...
19 Yes. I -- I was -- Nic Stiliadis'
20 entertainment lawyer for many years, starting, I
21 believe, in the late '80s all the way up through, I
22 don't know, mid-2000s.

7 Q Can you estimate how much you were
8 compensated over the 20-or-so period during which you
9 represented Mr. Stiliadis?
10 A Hundreds of thousands of dollars.

Mr. Daniels:

9 Q. And what was your relationship with Mr. Handal?
10 A. I would call him my first mentor.
11 Q. So fair to say that you kept in touch since
12 leaving the firm?
13 A. Yeah, off and on. We would reconnect every now
14 and then. And as Tony alluded to at the beginning of the
15 deposition, sort of grew old together and stayed in
16 contact. Not very frequently, but every now and then, we
17 would drop each other a line or a phone call.

7 Q. Did you review any documents in preparing for
8 your deposition today?
9 A. Sure, all the references. The '725 patent. I
10 scanned through it. I didn't really review it too
11 closely, the declaration of Dr. Houh. I may have
12 gotten -- but I didn't -- I don't remember going through
13 the -- the -- I don't know what the document is called,
14 but from your side, the pleading or whatever that
15 document is.

Demonstrative Exhibit Not Evidence

Ex-1028 at 14:12-22, 16:7-10; Ex-1023 at 101:9-17, 104:7-15

Mr. Tulchin's and Mr. Daniels's biases risk confusing and misleading the Board's analysis

Mr. Tulchin

- ☐ No technical degree
- ☐ Unfamiliar with '725 Patent
- ☐ Unfamiliar with prior art references
- ☐ Disagreement with plain text of '725 Patent
- ☐ Made “[h]undreds of thousands of dollars” as the inventor’s personal entertainment lawyer over “20 years or more”

Mr. Daniels

- ☐ Some technical training but no evidence meeting the technical requirement set by the Board’s level of skill
- ☐ Unfamiliar with '725 Patent
- ☐ Unfamiliar with Petition (Paper 1)
- ☐ Unfamiliar with embodiments of prior art applied in the Petition
- ☐ Unfamiliar with Declaration of Dr. Houh (Ex-1002)
- ☐ Unfamiliar with field of technology at the time of the invention

Disney Media and Entertainment Distribution, LLC
v.
Digital Media Technology Holdings, LLC

Petitioner's Presentation For IPR2024-00736
U.S. Patent No. 7,574,725
July 9, 2025