

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Duration Media LLC
Petitioner,

v.

Rich Media Club LLC
Patent Owner.

Case IPR2023-00953
U.S. Patent 11,443,329

DECLARATION OF IGOR TCHIBIREV

Duration Media v. Rich Media Club
IPR 2023-00953 (Patent 11,443,329)

Rich Media Club Exhibit **2025**

1. My name is Igor Tchibirev. I have personal knowledge of the facts set forth in this declaration and, if called to testify, could and would testify competently as follows.

2. I have a masters degree in Radio Engineering and did post-graduate work in Radio Physics. In the 1980s and 1990s, I worked as a scientist and an equivalent of adjunct professor of computer science and microprocessor technologies at the State Technical University, Zaporizhzhie, Ukraine. Since 2000, I worked as a system software developer of systems based on web technologies. I took part in the design, development and deployment of Computerized Heating Automation System (CHAS) for New York City Housing Authority (NYCHA).

3. From 2007 to the present, I have been the Chief Technology Officer of Rich Media Club, LLC (“RMC” or “Rich Media Club”). I contributed to and am listed on an inventor on several patents assigned to Rich Media Club, LLC, including U.S. Patent No. 11,443,329 (“the ’329 patent”).

4. During the time I worked with RMC, the company invented a method and system for testing whether ad space on a web page was in, partially in, or nearing the portion of a webpage that was actually visible in a user’s web browser. The invention made use of the visibility determination by selling the visible ad space – or ad space that was approaching visibility – as ad space that was more valuable than ad space that was not expected to be (or wasn’t) within the viewable

portion of user's browser. Following the invention of this technology, RMC established a related companies, RealVu, Inc. ("RealVu"). RMC licensed its patents to RealVu and RealVu was the industry-facing entity used to sell the viewable ad space to advertisers and publishers. I hold the same title, Chief Technology Officer, with RealVu.

5. In 2018, RealVu entered a Cooperation Agreement with Duration Media, Inc., under which RealVu supplied the underlying technology Duration Media needed to offer its product to its customers. A true and correct copy of the Cooperation Agreement has been marked as Exhibit 2009.

6. As set forth in the Cooperation Agreement, RealVu provided the technology to Duration "to screen ads purchased in real time for viewability leading to a high conversion rate to viewable impressions." Exhibit 2009 at RMC000001. This was something RealVu had been doing for years before entering the Cooperation Agreement, and because Duration had no technology of its own, it needed RealVu's technology to sell ad space that had been pre-screened for viewability. Duration Media's business of selling "second print" ads, or ads that would only appear in ad spaces that had been determined to be in the viewable portion of a user's internet browser was completely dependent on using RealVu's technology to do so.

7. As RealVu's CTO, I met with or communicated with Duration executives on many occasions, perhaps over a hundred times. I have first-hand knowledge of how Duration's system operated when they were a client of RealVu and how it operates today. From a functional perspective, the system Duration Media operates today copies the system it had been buying from RealVu.

8. Duration Media copied virtually every aspect of the technology it had been purchasing from RealVu, including: (1) determining whether an ad space was in or near the viewable area of user's browser; (2) in the event viewable ad space was confirmed, invoking a real-time bidding auction to sell the viewable ad space; and (3) replacing the original ad with the ad that was sold using the auction.

9. Duration also copied other aspects of RealVu's system. RealVu has a debugging or overlay tool that shows, in real time, how RealVu's system handles ads on a webpage. I have triggered the overlay on one of RealVu's customers, the website [angeleno.com](https://mlangeleno.com), to explain. Exhibit 2013 has two screenshots of a webpage located at the url <https://mlangeleno.com> that I captured in November 2023. Both are true and correct copies of how the webpages appeared when I took the screenshots.

10. The first screenshot shows how the webpage appears normally to visitors to the site. There is a banner ad for the "Inn on the Alameda" service on the top of the page, followed by other content.

11. The second screenshot shows the webpage once the RealVu overlay has been triggered by adding the phrase “/?boost_log” to the end of the url. The Board can replicate this functionality in realtime by visiting the full url:

https://mlangeleno.com/?boost_log.

12. As shown on the screen capture, the overlay shows how RealVu’s system tracks and operates with visible ad spaces. The overlay shows:

- (1) each ad space (U1 in the overlay);
- (2) total time the ad space is tracked (Ta=05:07 in the overlay);
- (3) total time the ad space is in view (Tv=00:22 in the overlay);
- (4) percent of the area in view (A=100 in the overlay);
- (5) number of times the ad has rotated (n=2 in the overlay); and
- (6) times when the “second print” for slots were requested (e.g., “U2 gg=slotRequested” in the overlay).

13. Duration Media copied RealVu’s overlay as well. When Duration Media was a client of RealVu, RealVu provided the viewable ad “second print” technology on the website of a Duration customer, fandom.com. When Duration copied RealVu’s technology, they kept fandom.com as a client, replacing the RealVu technology with Duration’s copied technology, including Duration’s copy of RealVu’s overlay feature.

14. As is the case with websites like angelelno.com powered by RealVu, it's possible to see Duration Media's copied technology. I have triggered the overlay on one of Duration Media's fandom.com, to explain. Exhibit 2014 has two screenshots of a webpage located at the url https://assassinscreed.fandom.com/wiki/Assassin%27s_Creed_Wiki that I captured in November 2023. Both are true and correct copies of how the webpages appeared when I took the screenshots.

15. The first screenshot shows how the webpage appears normally to visitors to the site. There is a banner ad for the "Hulu" service on the top of the page, followed by other content.

16. The second screenshot shows the webpage once the Duration Media overlay has been triggered by adding the phrase "?dm_debug=1" to the end of the url. The Board can replicate this functionality in realtime by visiting the full url: https://assassinscreed.fandom.com/wiki/Assassin%27s_Creed_Wiki?dm_debug=1.

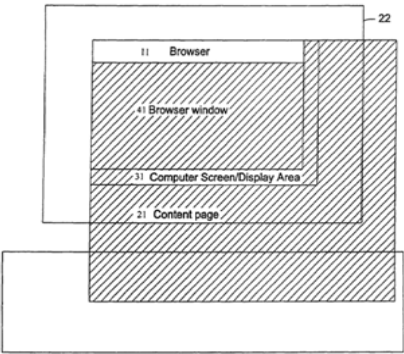
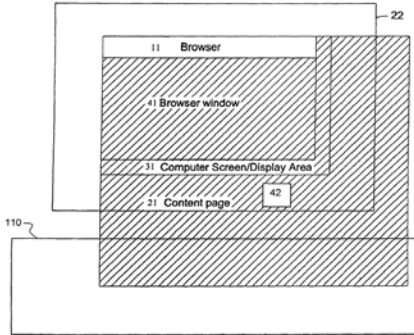
17. As shown on the screen capture, the overlay shows how Duration Media's system tracks and operates with visible ad spaces. The overlay shows:

- (1) each ad space (#1 in the overlay);
- (2) total time the ad space is tracked (t=2:37 in the overlay);
- (3) total time the ad space is in view (vt=01:38 in the overlay);
- (4) percent of the area in view (p=100% in the overlay); and

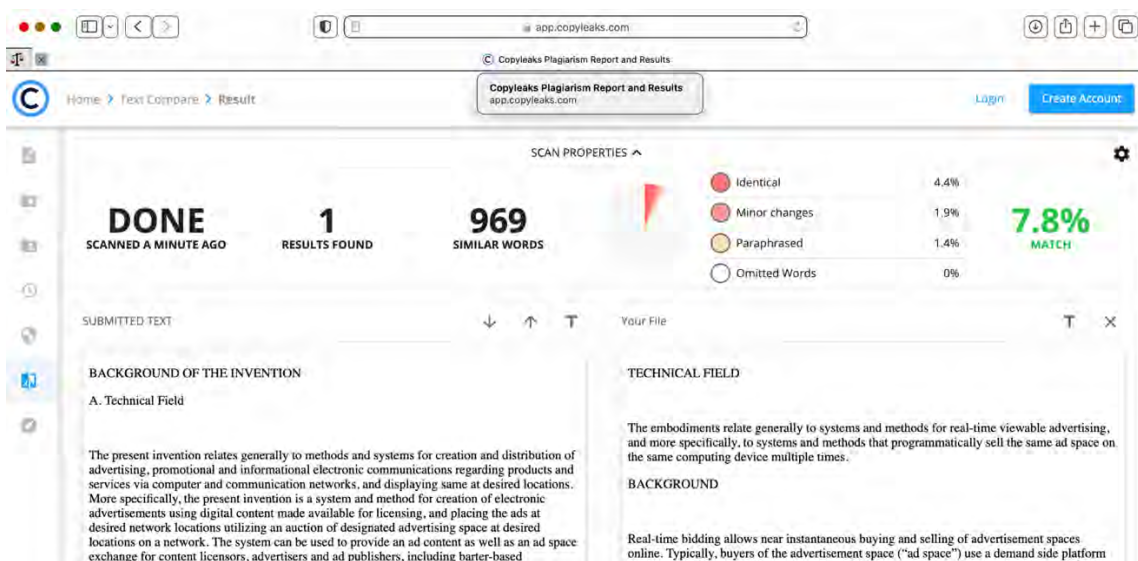
(6) times when the “second print” for slots were requested (e.g., “#1 728x90 Ad Request” in the overlay).

18. In addition to copying RealVu’s technology and overlay system, Duration Media also copied RealVu/Rich Media Club’s patent. Ten years after Rich Media Club applied for the patent that became the ’329 patent, Duration Media submitted a patent application that ultimately matured into a patent with the number 11,195,210. A true and correct copy of the ’210 has been marked as Exhibit 2005.

19. One example of Duration Media’s copying of material from RealVu’s patent is one of the figures. Figure 3 from the Duration Media patent is a copy of figure 51 from the RealVu patent, as has been shown in exhibit 2007 and reproduced below:

Ex. 1001 ‘329 Patent Figure 51 and Description	Ex. 2005 (Batkin) Figure 3 and Description
 FIG. 51	 FIG. 3
FIG. 51 is a diagrammatical overview of the interplay and overlap of a viewer's screen display area, browser application, browser window and ad content display page.	FIG. 3 is a diagrammatical overview of the interplay and overlap of a viewer's screen display area, browser application, browser window and ad content display page.

20. In addition to the figure, Duration’s patent copied quite a bit of other text from our patent. According to a CopyLeaks Plagiarism Report, when the text of Rich Media’s patent is compared to the text of Duration’s patent (excluding the software code in our patent), there is a 7.8% match, with over 4.4% of the text plagiarized verbatim:



21. Exhibit 2008 is a comparison by CopyLeaks of Duration’s ‘210 patent to our ‘329 patent. These documents show extensive verbatim copying by Duration, including, for example:

<u>11,443,329 to Rich Media</u>	<u>11,195,210 to Duration</u>
FIG. 51 is a diagrammatical overview of the interplay and overlap of a viewer's screen display area, browser application, browser window and ad content display page.	FIG. 3 is a diagrammatical overview of the interplay and overlap of a viewer's screen display area, browser application, browser window and ad content display page.

<u>11,443,329 to Rich Media</u>	<u>11,195,210 to Duration</u>
FIG. 1 is a diagrammatical overview of the communication flow of the present invention. FIG. 2 is a flow chart depicting the ad spot-auction process flow.	FIG. 1 is a diagrammatical overview of the communication flow of the present invention. FIG. 2 is a flow chart depicting the ad spot-auction process flow.
From the ad publisher's perspective there are also two main tasks to accomplish: 1) display of the highest revenue-producing ads; and 2) <u>reducing the amount of work necessary to place, maintain, track and process payments for advertising.</u>	On the demand side, the ad buyer (advertiser) seeks to maximize placement and impact of their ad, while on the supply side, the ad space seller (publisher) seeks to <u>reduce the amount of work necessary to place, maintain, track and process payments for placing the ad.</u>
Advertiser computer 2 communicates with the <u>content server 125 to license content to create an ad and with the dispatcher server 126 to enter the parameters and commands to retrieve the content files (the dispatcher server and the content server can comprise the same server), assemble them into the overall ad, preview and display the ad at the designated ad space 5, also including the keywords to be associated with the ad, possibly geographical, timing, or other parameters as to display of the ad</u>	The advertiser may communicate with one or more <u>content servers 150 a-n to license content to create an ad and with the application server 140 to enter the parameters and commands to retrieve the content files (the application server and the content server can comprise the same server), assemble them into the overall ad, preview and display the ad at the designated ad space, also including the keywords to be associated with the ad, possibly geographical, timing, or other parameters as to display of the ad</u>
the query string link stored on the page is triggered, activating the billboard module, and the real time auction is conducted to select a bidding advertiser's <u>ad parameter and command file</u> at the dispatcher server	When the script 10 embedded at an ad slot in a publisher's webpage is activated, it may communicate with the application server 140 and <u>ad parameter and command file</u> database 160 thereon, where relevant

<u>11,443,329 to Rich Media</u>	<u>11,195,210 to Duration</u>
for rendering at the designated billboard module location at the ad content display page,	keywords and other information relating to the ad space are provided from the script 10.
<u>a system-end computer equipped and configured for Internet or other network communications, including a dispatcher server including an ad parameter and command file database, and one or more software applications to execute a real-time auction to select an ad to be displayed at a particular network location; and also including computer processing means and one or more Internet or other network communications interface software applications for interfacing with system advertisers, providing a menu screen for advertisers to enter instructions for the creation of an ad, including messaging to be included in the ad, selection of an ad template, selection of digital content for the ad which may be licensed from third parties, and an area to enter instructions for an ad campaign, including selection of ad display locations, entry of cost-per-click bids for display of the ads and keywords or categories to be associated with the ad, and creating a data file in said dispatcher server database that contains parameters and commands to be used by the billboard module to provide access to said template advertisement file, licensed digital content, messaging, as well as the</u>	<u>a system-end computer equipped and configured for internet or other network communications, including an application server 140 including an ad parameter and command file database 160, and one or more software applications to execute a real-time auction to select an ad to be displayed at a particular network location. Moreover, the system-end computer may also include computer processing means and one or more Internet or other network communications interface software applications for interfacing with advertisers, providing a menu screen for advertisers to enter instructions for the creation of an ad, including messaging to be included in the ad, selection of an ad template, selection of digital content for the ad which may be licensed from third parties, and an area to enter instructions for an ad campaign, including selection of ad display locations, entry of cost-per-click bids for display of the ads and keywords or categories to be associated with the ad, and creating a data file in said dispatcher server database that contains parameters and commands to be used by the logic to provide access to said</u>

<u>11,443,329 to Rich Media</u>	<u>11,195,210 to Duration</u>
<u>total cost-per-use of the licensed digital media files, the keywords/categories the ad will be associated, the network locations where the ad will be displayed and the advertiser's bid for display of the ad at the desired location;</u>	<u>template advertisement file, licensed digital content, messaging, as well as the total cost-per-use of the licensed digital media files, the keywords/categories the ad will be associated, the network locations where the ad will be displayed and the advertiser's bid for display of the ad at the desired location.</u>
<u>The system runs a comparison, based on an algorithm, of all advertisements in the database with keywords that match the keywords associated with the advertising display location up for auction.</u> This algorithm takes into account a variety of customizable parameters, including, without limitation the CPC/CPM bid on the advertisement and the click-through rate of the advertisement. <u>The winning advertisement is then displayed in the advertising space. The advertisement displayed may also be assembled according to instructions in the same or other database. These instructions may call elements from a variety of locations, and assemble them for display within the advertising module. All actions taken on the advertising content are then sent back to the relational database</u> using FSDC.	<u>The system runs a comparison, based on an algorithm, of all advertisements in the database with keywords that match the keywords associated with the advertising display location up for auction.</u> This algorithm takes into account a variety of customizable parameters, including, without limitation the type of bid on the advertisement and the click-through rate of the advertisement. <u>The winning advertisement is then displayed in the advertising space. The advertisement displayed may also be assembled according to instructions in the same or other database. These instructions may call elements from a variety of locations and assemble them for display within the advertising module. All actions taken on the advertising content are then sent back to the relational database</u> (e.g., command file database 160).
Once the auction is conducted and an ad is selected, the corresponding ad parameter and command file for the ad	Once the auction is conducted and an ad is selected, the corresponding ad parameter and command file for the ad

<u>11,443,329 to Rich Media</u>	<u>11,195,210 to Duration</u>
in the ad parameter and command file database 20 is activated to retrieve the ad content files comprising the ad from the ad content file server(s) 125 , assemble and display the ad at the ad space 5 . Meta data relating to the ad is sent back to the dispatcher server 126 for tracking and also charging for use of the licensed content and display of the ad at the ad space 5 . The advertiser's account is debited and the content licensors and ad publishers are paid.	in the ad parameter and command file database 160 may be activated to retrieve the ad content files comprising the ad from the content server(s) 150 a-n (or the application server 140), and to assemble and display the ad at the ad space. Meta data relating to the ad is sent back to the application server 140 for tracking and also charging for use of the licensed content and display of the ad at the ad space. The advertiser's account may be debited and the content licensors and ad publishers may be paid.

22. I have also visited Duration Media's website and printed out two pages from the site. The first has been marked as Exhibit 2022 and is a true and correct copy of the webpage at the url: <https://durationmedia.net/press/>. The second has been marked as Exhibit 2023 and is a true and correct copy of the url: <https://durationmedia.net/patent-information/>.

Signature page follows.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 6, 2023

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name.

Igor Tchibirev