

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHARTER COMMUNICATIONS, INC.,
Petitioner,

v.

TOUCHSTREAM TECHNOLOGIES, INC.,
Patent Owner.

IPR2024-01232
Patent 11,048,751 B2

Before GEORGIANNA W. BRADEN, MICHELLE N. WORMMEESTER,
and MATTHEW S. MEYERS, *Administrative Patent Judges*.

WORMMEESTER, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes Review*

35 U.S.C. § 314

Denying Motion for Joinder

35 U.S.C. § 315(c); 37 C.F.R. § 42.122

I. INTRODUCTION

Charter Communications, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1–20 of U.S. Patent No. 11,048,751 B2 (Ex. 1101, “the ’751 patent”). Petitioner also filed a Motion for Joinder (Paper 3, “Joinder Motion” or “Joinder Mot.”) seeking to join this proceeding with *Comcast Cable Communications, LLC v. Touchstream Technologies, Inc.*, IPR2024-00324 (“the Comcast IPR”), which involves the same patent and the same challenged claims as here. Touchstream Technologies, Inc. (“Patent Owner”) did not file a preliminary response or an opposition to the Joinder Motion.

We have authority under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). Pursuant to 35 U.S.C. § 314(a), an *inter partes* review may not be instituted ‘unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.’”

For the reasons that follow, we deny the Joinder Motion as well as institution of an *inter partes* review of the challenged claims.

II. BACKGROUND

A. Related Proceedings

The parties identify various related matters, including several federal district court cases and petitions for *inter partes* review. Pet. ix–xii; Paper 5, 1–2 (Patent Owner’s Mandatory Notices).

B. The ’751 Patent

The ’751 patent relates to “play control of content on a display device.” Ex. 1101, 1:19–20. As an example, the ’751 patent describes

“operat[ing] a television set or other display remotely from a personal computing device, such as a mobile phone.” *Id.* at 1:37–41. To illustrate one embodiment, Figure 1 of the ’751 patent is reproduced below.

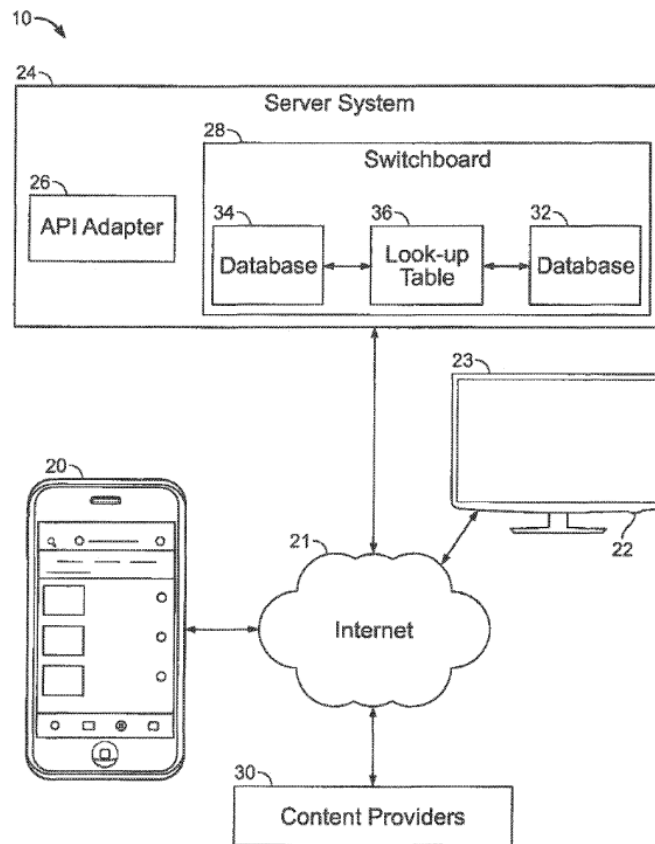


FIG. 1

Figure 1 is a block diagram of system 10, which includes personal computing device 20 and television set 22 with display 23. *Id.* at 2:53–54, 3:13–21. Personal computing device 20 displays an application or website that includes information and links to content providers 30 on Internet 21. *Id.* at 3:21–24. A user may use personal computing device 20 to select specific content to be displayed on television display 23. *Id.* at 3:26–30. In this way, personal computing device 20 may act as a controller, and television set 22 may act as a receiver that plays content selected by the user. *Id.* at 3:15–21.

When the user of personal computing device 20 selects specific content to be displayed on television display 23, personal computing device 20 sends a signal through Internet 21 to server system 24. Ex. 1101, 3:26–30. Server system 24 then sends a corresponding command signal to television set 22, which acts on a transmission code included within the signal and performs specified commands. *Id.* at 3:30–33. These commands may instruct television set 22 to access a certain content provider 30 through Internet 21, load a specific media player, load the media player-specific content (e.g., a video), and play the content on television display 23. *Id.* at 3:33–37.

The user may further use personal computing device 20 to control how the content is played on television display 23. Ex. 1101, 3:37–39. For example, the user may input play commands such as play, pause, stop, rewind, and fast forward. *Id.* at 3:51–54. These play commands also are passed from personal computing device 20, through server system 24, to television set 22. *Id.* at 3:54–56.

C. Illustrative Claim

Petitioner challenges claims 1–20 of the '751 patent, where claims 1, 12, and 17 are independent. Claim 1 is illustrative:

1. A non-transitory computer storage medium storing computer-useable instructions that, when used by a first computing device, cause the first computing device to perform operations comprising:

- obtaining a synchronization code associated with the first computing device, wherein the associated synchronization code is stored on a remote server device;

providing the synchronization code to a second computing device in communication with the remote server device, wherein the provided synchronization code causes the remote server device to store an association between the first computing device and the second computing device;

receiving, from the remote server device, a first message that includes at least one command in a first format, the first message being received based at least in part on the stored association and on a second message including at least one command in a second format having been sent from the associated second computing device;

selecting a first media player application from a plurality of media player applications based at least in part on the first format of the first message, the first media player application being selected to play a first piece of content referenced in the received first message; and

controlling how the selected first media player application plays the referenced first piece of content based on a first command of the at least one command in the first format having been included in the received first message.

Claim 12 is directed to “[a] computer-implemented method for remotely presenting various types of content.” Claim 17 is directed to “[a] content presentation device.” Both claims 12 and 17 recite similar limitations as claim 1, including the claim terms “first format” and “second format.”

D. Asserted Challenges to Patentability

Petitioner asserts the following three challenges to claims 1–20 of the ’751 patent. Pet. 18, 21–83.

Claims Challenged	35 U.S.C. §	References/Basis
1–20	103(a) ¹	Danciu, ² Mahajan ³
1–20	103(a)	Danciu, Mahajan, Calvert ⁴
1–20	103(a)	Aldrey, ⁵ Mahajan

In support of its challenges, Petitioner relies on a Declaration of David B. Lett (Ex. 1102).

III. JOINDER MOTION

Before addressing whether to institute *inter partes* review, we first address Petitioner’s Joinder Motion.

Petitioner seeks joinder to the Comcast IPR. Joinder Mot. 1. We have denied institution of *inter partes* review in that case. Although we had initially granted institution in the Comcast IPR on July 24, 2024, we later denied institution on rehearing on October 9, 2024. Comcast IPR, Paper 13 (Institution Decision), Paper 19 (Rehearing Decision). The petitioner in the Comcast IPR then filed a request for rehearing of our Rehearing Decision (Comcast IPR, Paper 20); but the petitioner’s rehearing request was denied

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011), amended 35 U.S.C. § 103, effective March 16, 2013. Because the application from which the ’751 patent issued claims the benefit of priority to an application that was filed before this date, the pre-AIA version of § 103 applies.

² Danciu et al., U.S. Patent No. 9,490,998 B1, issued Nov. 8, 2016 (Ex. 1112).

³ Mahajan et al., U.S. Publ’n No. 2009/0248802 A1, published Oct. 1, 2009 (Ex. 1114).

⁴ Calvert, U.S. Publ’n No. 2004/0078812 A1, published Apr. 22, 2004 (Ex. 1111).

⁵ Aldrey et al., U.S. Publ’n No. 2009/0172757 A1, published July 2, 2009 (Ex. 1115).

(Comcast IPR, Paper 21). In other words, *inter partes* review of the '751 patent is no longer instituted in the Comcast IPR.

Petitioner in this case filed its Joinder Motion on August 9, 2024, no later than one month after we initially instituted *inter partes* review in the Comcast IPR. *See* 37 C.F.R. § 42.122(b). As discussed above, however, *inter partes* review is no longer instituted in the Comcast IPR. Under these circumstances, we do not grant Petitioner's Joinder Motion because there is no pending proceeding to join. *See* 35 U.S.C. § 315(c) ("If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition . . . that the Director . . . determines warrants the institution of an inter partes review.").

Petitioner's Joinder Motion is denied.

IV. PETITION FOR INTER PARTES REVIEW

We now address whether to institute *inter partes* review in this case, starting with claim construction.

A. Claim Construction

In an *inter partes* review proceeding, we construe a claim of a patent "using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b)." *See* 37 C.F.R. § 42.100(b). That standard involves construing claims in accordance with the ordinary and customary meaning of such claims as would have been understood by one of ordinary skill in the art and the prosecution history

pertaining to the patent. *Id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc).

Petitioner asserts that “all claim terms herein should be given their ordinary and customary meaning to a [person of ordinary skill in the art], consistent with the prosecution history, as they would be given in a civil action under 35 U.S.C. § 282(b).” Pet. 20. Patent Owner does not respond.

As discussed above, the claims recite “first format” and “second format,” which appear in each of independent claims 1, 12, and 17. In the Comcast IPR, which involves the same patent and the same claims as here, we determined that “first format” and “second format” refer to different formats. Comcast IPR, Paper 19, 5–9. For the reasons given below, we adopt the same claim construction of “first format” and “second format” for purposes of this Decision.

1. “first format” and “second format”

As noted above, independent claims 1, 12 and 17 recite a “first format” and a “second format.” We focus on claim 1, which recites, in part,

the first computing device . . . receiving, from the remote server device, a first message that includes at least one command in a first format, the first message being received based at least in part . . . on a second message including at least one command in a second format having been sent from the associated second computing device.

Ex. 1101, 11:62–67 (emphases added).

To determine a claim term’s ordinary and customary meaning as would be understood by one of ordinary skill in the art, we look to the claims, the specification, the prosecution history, and even extrinsic

evidence, although extrinsic evidence is less significant than the intrinsic record. *Phillips*, 415 F.3d at 1312–17.

Here, neither the claim language nor the specification expressly defines the terms “first format” and “second format.”

Turning to other parts of the ’751 patent, we note that claim 3 recites “the first format is different than the second format.” Claim 3 depends from claim 1. The doctrine of claim differentiation says that “dependent claims are presumed to be of narrower scope than the independent claims from which they depend.” *AK Steel Corp. v. Sollac & Ugine*, 344 F.3d 1234, 1242 (Fed. Cir. 2003). Thus, claim 1 is presumed to encompass first and second formats that are the *same*.

That presumption can be overcome, however. The Federal Circuit has explained that “[a]ny presumption created by the doctrine of claim differentiation ‘will be overcome by a contrary construction dictated by the written description or prosecution history.’” *Retractable Techs., Inc. v. Becton, Dickinson & Co.*, 653 F.3d 1296, 1305 (Fed. Cir. 2011) (internal citation omitted). According to the Federal Circuit, “[t]he prosecution history modifies the scope of a claim term if ‘the patentee distinguished that term from prior art on the basis of a particular embodiment, expressly disclaimed subject matter, or described a particular embodiment as important to the invention.’” *Sentry Protection Prods., Inc. v. Eagle Mfg. Co.*, 400 F.3d 910, 915 (Fed. Cir. 2005).

In this case, Petitioner directs our attention to the prosecution history for the ’751 patent. Petitioner asserts that “Applicant argued that neither [prior art reference] disclose[s] ‘a first message that includes at least one command in a first format, wherein the first message is received based at

least in part on a second message including at least one command in a second format.” Pet. 4 (citing Ex. 1104, 168–173). The cited portion of the prosecution history shows that the applicant distinguished its claims from the prior art based on *different* first and second formats. The applicant argued in particular,

Applicant submits that [the prior art] is completely silent with regard to “*receiving, from the remote server device, a first message that includes **at least one command in a first format**, wherein the first message is received based at least in part on a second message including **at least one command in a second format** having been sent from the associated remote computing device.*”

In fact, [the prior art] never describes commands in different formats. . . .

Ex. 1104, 170. Based on the applicant’s argument in this regard, we find that the prosecution history limits the scope of claim 1 to *different* first and second formats. In other words, the applicant’s argument during prosecution distinguishing its claims from the prior art based on *different* first and second formats overcomes the presumption based on claim differentiation that claim 1 encompasses first and second formats that are the *same*. See *Fenner Invs., Ltd. v. Cellco P’Ship*, 778 F.3d 1320, 1327 (Fed. Cir. 2015) (“Although claim differentiation is a useful analytic tool, it cannot . . . relieve any claim of limitations imposed by the prosecution history.”).

Accordingly, claim 1 is limited to *different* first and second formats.

2. Summary

In view of the foregoing, we determine that the proper construction of the claim terms “first format” and “second format” requires the two formats

to be different. This determination is consistent with our claim construction of the same terms in the Comcast IPR. *See* Comcast IPR, Paper 19, 5–9.

B. Asserted Challenges Based on Danciu

With this claim construction in mind, we now address Petitioner’s unpatentability challenges. Petitioner asserts that claims 1–20 would have been obvious over Danciu and Mahajan as well as over Danciu, Mahajan, and Calvert. Pet. 21–57. Patent Owner does not respond. For the reasons explained below, we determine that Petitioner has *not* demonstrated a reasonable likelihood of prevailing on these challenges.

1. Overview of Asserted Prior Art

Before addressing Petitioner’s arguments, we provide an overview of Danciu, Mahajan, and Calvert.

a. Danciu

Danciu describes “techniques for controlling networked devices.” Ex. 1112, 1:9–10. To illustrate one embodiment, Figure 1 of Danciu is reproduced below.

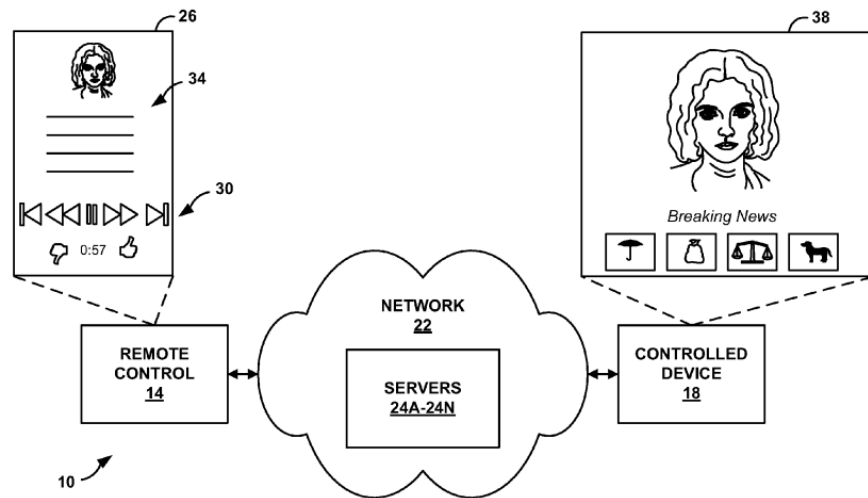


FIG. 1

Figure 1 of Danciu illustrates networked environment 10 including remote control 14 and controlled device 18. *Id.* at 4:58–61. Remote control 14 may be a web-enabled cellular phone, and controlled device 18 may be a network-enabled television or set top box. *Id.* at 5:1–2, 5:42–45. Remote control 14 communicates with controlled device 18 via servers 24A–24N (collectively, servers 24) in network 22. *Id.* at 4:61–64.

In operation, remote control 14 sends a message to server 24. Ex. 1112, 16:47–49, Fig. 6. The message may contain a remote control identifier issued by server 24 that identifies remote control 14 as being part of a session, and control information intended to alter the operation of controlled device 18. *Id.* at 16:47–52, Fig. 6. The control information may include commands like “stop playback of content” or “move to other content,” where the content may be audio or video content on controlled device 18. *Id.* at 1:39–45, 16:52–54, Fig. 6. Server 24 then queries a database of stored identification numbers to determine which controlled device is associated with the session that includes the remote control

identifier. *Id.* at 16:55–59, Fig. 6. Next, server 24 transmits the control information to intended controlled device 18. *Id.* at 16:60–65, Fig. 6. After receiving the control information, controlled device 18 executes an action in accordance with the control information. *Id.* at 16:65–67, Fig. 6.

b. Mahajan

Mahajan describes “handling media playback operations in collaboration sessions.” Ex. 1114 ¶ 11. Mahajan explains that collaboration sessions provide a remoting experience between a client computer (or client) and a server computer (or server). *Id.* Examples of collaboration sessions include remote terminal sessions, where the server’s graphical user interface (GUI) is generated on the client, and presentation sessions, where the GUI of a particular application running on the server is generated on the client. *Id.* ¶ 20.

To illustrate one embodiment of a system implementing collaboration sessions, Figure 2 of Mahajan is reproduced below.

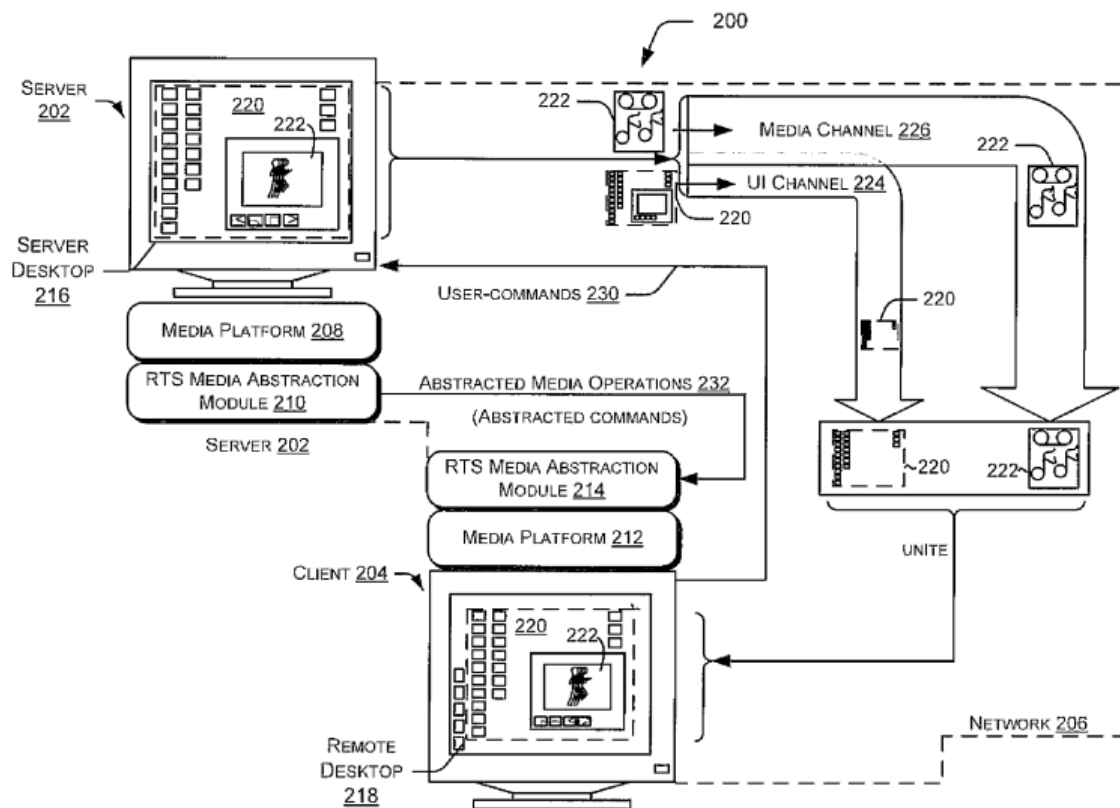


Fig. 2

Figure 2 of Mahajan illustrates system 200, which includes server 202 and client 204. Ex. 1114 ¶ 24. Server 202 and client 204 communicate over network 206. *Id.* Server 202 includes media platform 208 and remote terminal session (RTS) media abstraction module 210, whereas client 204 includes media platform 212 and RTS media abstraction module 214. *Id.*

During a remote terminal session, a user at client 204 enters user media playback commands 230 relating to remote desktop 218. Ex. 1114 ¶ 35. Commands 230 are sent from client 204 to server 202 via network 206. *Id.* The server's media platform 208 processes commands 230 into platform specific media commands (which means they are processed according to the configuration of the server). *Id.* ¶¶ 21, 35.

The platform specific media commands may be intercepted as part of the remote terminal session and sent to client 204 for execution. *Id.* ¶¶ 22, 35.

Because the client's media platform 212 may be different from the server's media platform 208, however, the client's media platform 212 may not understand the media playback commands specific to the server's media platform 208. Ex. 1114 ¶ 36. Mahajan's system therefore provides an abstraction functionality. *Id.* ¶ 13. Upon interception of the platform specific media commands, the server's RTS abstraction module 210 translates the intercepted media commands into generic or abstracted media commands 232 and then sends generic commands 232 to the client's RTS media abstraction module 214. *Id.* The client's RTS media abstraction module 214 translates generic media commands 232 into media commands that are specific to the client's media platform 212, which then executes the client specific media commands. *Id.*

c. Calvert

Calvert describes "indexing, acquiring, and playing media services, particularly media services in the form of streaming media available from a plurality of content aggregators." Ex. 1111 ¶ 1.

2. Analysis

We turn now to the claims, addressing independent claims 1, 12, and 17 together. As discussed above, claims 12 and 17 recite similar limitations as claim 1. Petitioner relies primarily on its discussion of claim 1 for claims 12 and 17. Pet. 49–50 (discussing claim 12); *id.* at 53–56

(discussing claim 17). Accordingly, we focus on the language of claim 1. Our analysis applies to claims 12 and 17.

Claim 1 recites, in part,

the first computing device . . . receiving, from the remote server device, a first message that includes at least one command in a *first format*, the first message being received based at least in part . . . on a second message including at least one command in a *second format* having been sent from the associated second computing device.

Ex. 1101, 11:62–67 (emphases added). Petitioner designates this limitation as limitation 1D. Pet. 25. As part of its analysis, Petitioner provides an annotated version of Figure 1 of Danciu, reproduced below. Pet. 25.

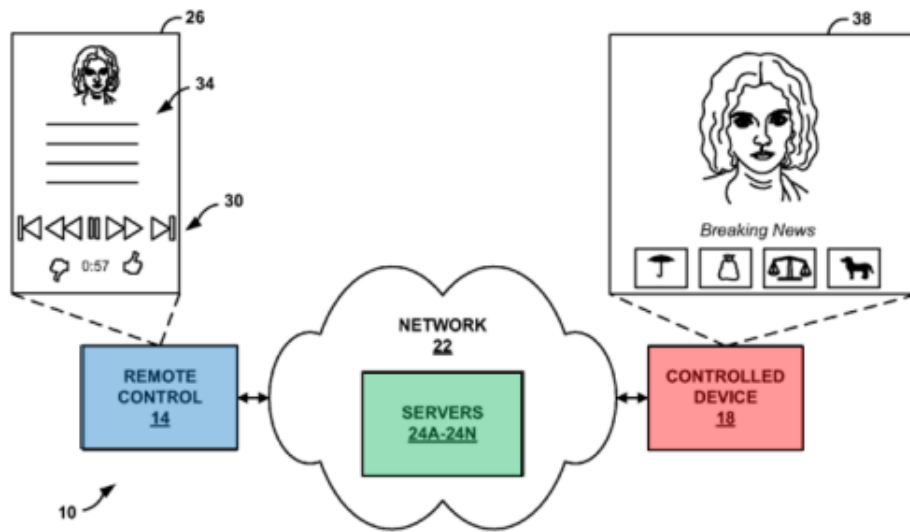


FIG. 1

Figure 1 of Danciu, as annotated by Petitioner, illustrates networked environment 10 with remote control 14 and controlled device 18. See Ex. 1112, 4:58–61. Referring to its version of Figure 1, Petitioner asserts that “Danciu’s remote control 14 (blue) provides commands (‘fast forward, reverse, skip ahead or back, play, stop, move to new content, etc.’) via

servers 24 (**green**) for content being played on controlled device 18 (**red**).” Pet. 25 (citing Ex. 1112, 5:29–37, 5:64–6:2, 10:45–53, Fig. 1).

Regarding the claimed first and second formats in particular, Petitioner asserts that “Danciu’s servers ‘route the messages to other members of the session,’” where “there may be separate messages from the remote control to the server, and from the server to the controlled device.” Pet. 26 (citing Ex. 1112, 7:17–20, 16:24–17:43). Petitioner further asserts that, “when receiving a message from the remote control intended for the controlled device, ‘server 24 may process and/or repackage the control information of the message into a new message.’” *Id.* (quoting Ex. 1112, 16:63–67). According to Petitioner, “[t]he message from the remote control to the server is thus ‘a second message including at least one command in a second format having been sent from the associated second computing device,’” and, “[a]fter reformatting the message, the server then sends the claimed ‘a first message that includes at least one command in a first format.’” *Id.*

Based on the record before us, we are not persuaded by Petitioner’s argument and evidence. As discussed above in the claim construction section, the recited first and second formats are limited to different formats. *See supra* Part IV.A. To satisfy this aspect of limitation 1D under its theory, Petitioner needs to show that in Danciu the format of the control information sent from the remote control to the server is different from the format of the control information sent from the server to the controlled device. The cited disclosures in Danciu, however, do not teach or suggest that these formats are different. Nor does Petitioner explain adequately how Danciu’s disclosures teach or suggest the two formats are different. We recognize that

the control information in Danciu may be “processed” or “repackaged,” as Petitioner asserts, but it is not clear that the control information is processed or repackaged such that the format of the control information sent from the remote control to the server and the format of the control information sent from the server to the controlled device are different.

Petitioner does not rely on Mahajan to teach or suggest the recited first and second formats but relies on Mahajan instead as providing “implementation details for transmission of commands for controlling a client.” Pet. 27. Petitioner contends that its proposed combination of Danciu and Mahajan would have provided a system where “Danciu’s remote control would translate commands associated with a first type of media playing application to a generic format, transmit them to the controlled device, which would translate them to a command associated with a second type of media playing application for execution.” *Id.* at 31. In other words, the controlled device would receive the generic commands sent from the remote control and then translate the generic commands. It is not clear how the proposed combination in this way teaches or suggests the format of a command sent from the remote control to a server is different from the format of a command sent from the server to the controlled device.

Petitioner does not rely on Calvert for limitation 1D. *See* Pet. 34–38 (relying on Calvert for teaching “the first media player application being selected to play a first piece of content referenced in the received first message”).

3. *Summary*

In view of the foregoing, we determine that Petitioner has not demonstrated a reasonable likelihood of showing that claims 1, 12, and 17 would have been obviousness over Danciu and Mahajan or over Danciu, Mahajan, and Calvert. Claims 2–11, 13–16, and 18–20 depend from claims 1, 12, or 17. We have reviewed Petitioner’s contentions regarding these dependent claims and note that they rely on the same analysis for the limitation of claim 1 discussed above. *See* Pet. 39–49, 51–53, 56–57. Accordingly, we also determine that Petitioner has not demonstrated a reasonable likelihood of showing that claims 2–11, 13–16, and 18–20 would have been obvious over Danciu and Mahajan or over Danciu, Mahajan, and Calvert.

C. Asserted Challenge Based on Aldrey and Mahajan

Petitioner asserts that claims 1–20 would have been obvious over Aldrey and Mahajan. Pet. 57–83. Patent Owner does not respond. For the reasons explained below, we determine that Petitioner has *not* demonstrated a reasonable likelihood of prevailing on this challenge.

Before addressing Petitioner’s arguments, we provide an overview of Aldrey. We have already provided an overview of Mahajan. *See supra* Part IV.B.1.b.

1. Overview of Aldrey

Aldrey describes an approach for remotely controlling set-top boxes. Ex. 1115, code (57). A command is received from a computing device for

controlling multiple set-top boxes. *Id.* The set-top boxes are configured according to the command. *Id.*

2. Analysis

As with the challenges based on Danciu, we address claims 1, 12, and 17 together, focusing on the language of claim 1. In particular, we focus on limitation 1D of claim 1, which recites,

the first computing device . . . receiving, from the remote server device, a first message that includes at least one command in a *first format*, the first message being received based at least in part . . . on a second message including at least one command in a *second format* having been sent from the associated second computing device.

Ex. 1101, 11:62–67 (emphases added). For this limitation, Petitioner presents two theories, one based on Aldrey alone and one based on Aldrey combined with Mahajan. Pet. 62–67, 77, 81.

Under its first theory, based on Aldrey alone, Petitioner provides an annotated version of Figure 1 of Aldrey, reproduced below. Pet. 62.

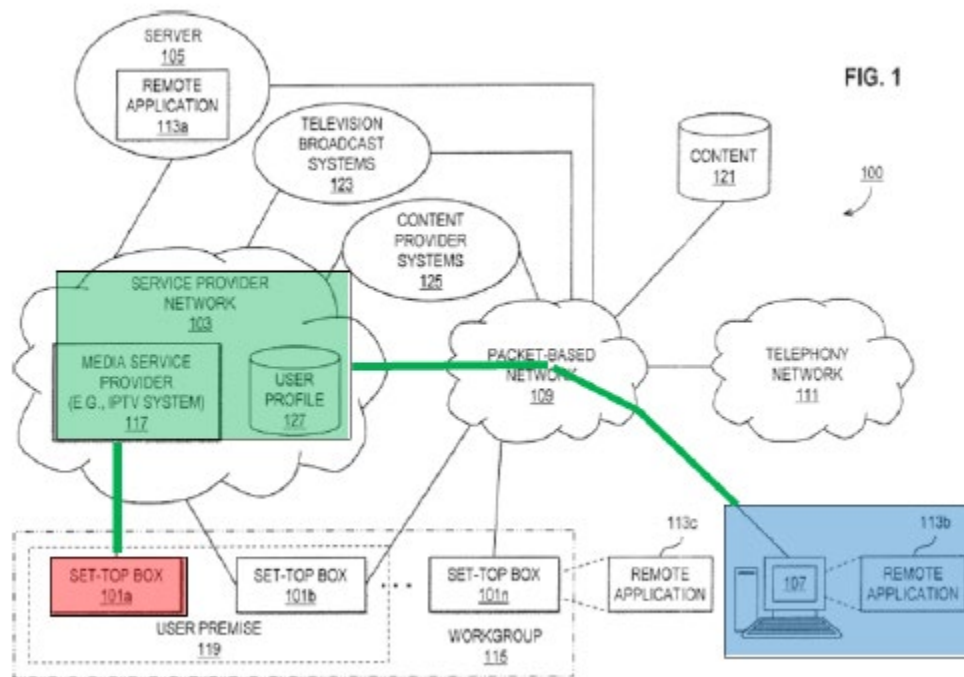


Figure 1 of Aldrey, as annotated by Petitioner, is a diagram of a system for remote set-top box (STB) management. *See* Ex. 1115 ¶ 4. Petitioner asserts that “Aldrey teaches a STB 101 (**red**) receiving commands from a remote application running on an end terminal 107 (**blue**),” and “that ‘connections [**green**] between the STBs 101a-101n and the end terminal(s) 107 may be established directly or through server 105 and/or MSP 117 [of service provider network 103].’” Pet. 62 (citing Ex. 1115 ¶¶ 25, 35–36, 39, 48). Petitioner additionally asserts that “[a] user, who is accessing user interface menus based on the registered information from the STB . . . , may send a set of messages to be received at the STB.” *Id.* at 63 (citing Ex. 1115 ¶¶ 63–67). According to Petitioner, “[t]hese messages, which include a set of commands, satisfy the elements of limitation [1D].” *Id.* Petitioner identifies Aldrey’s STB 101 as a “first computing device,” Aldrey’s end terminal 107 as a “second computing device,” and Aldrey’s service provider network 103 as a “remote server device.” *Id.* at 57–58, 65.

Under its second theory, based on Aldrey and Mahajan, Petitioner further relies on Mahajan “[t]o any extent that Aldrey fails to teach or suggest at least one command in a first format, and at least one command in a second format.” Pet. 63. Petitioner argues that “Mahajan teaches implementation details regarding transmitting commands from a computing device (e.g., [Aldrey’s] end terminal) to a client (e.g., [Aldrey’s] STB).” *Id.* Petitioner asserts that Mahajan’s “RTS Media Abstraction module of the client . . . converts the commands received by the client . . . from Mahajan’s server.” *Id.* at 64 (citing Ex. 1114 ¶¶ 37–43, 63, Figs. 1, 3, 5). According to Petitioner, “[b]ased on Mahajan’s express teachings that its system can operate in a distributed environment, it would have been obvious to a [person of ordinary skill in the art] that one or more RTS Media Abstraction Modules could operate at a server, such as in [Aldrey’s] Service Provider Network 103.” *Id.* at 65. Petitioner adds,

Combining Mahajan with Aldrey would have been nothing more than applying a known technique (Mahajan’s system for sending commands) to a known device (Aldrey’s web-based UI control system) ready for improvement to yield predictable results (Aldrey’s end terminal would translate commands associated with a first type of media playing application to a command associated with a second type of media playing application on a STB).
Id. at 66–67.

On the record before us, we are unpersuaded by Petitioner’s arguments and evidence. As discussed above in the claim construction section, the recited first and second formats of limitation 1D require different formats. *See supra* Part IV.A. To satisfy this aspect of limitation 1D under either of Petitioner’s theories, Petitioner needs to show

that the format of a command sent from end terminal 107 to network service provider 103 is different from the format of a command sent from network service provider 103 to STB 101. *See* Pet. 62 (annotated Fig. 1 of Aldrey).

With respect to Petitioner’s first theory, based on Aldrey alone, Petitioner does not address the format of any command in Aldrey, let alone whether the format of a command sent from the end terminal to the network service provider is different from the format of a command sent from the network service provider to the STB. *See* Pet. 62–63. Given Petitioner’s failure to address how Aldrey teaches or suggests the claimed first and second formats, we are unpersuaded that Aldrey alone meets limitation 1D.

We also are unpersuaded that Petitioner’s proposed combination of Aldrey and Mahajan meets limitation 1D under Petitioner’s second theory. Petitioner only alleges that it would have been obvious to an ordinarily skilled artisan that Mahajan’s RTS Media Abstraction Module *could* operate at a server like Aldrey’s service provider network 103. Pet. 65. The Federal Circuit has explained that “obviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.” *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015). Petitioner does not adequately explain *why* an ordinarily skilled artisan would have considered locating Mahajan’s abstraction module at a server, even if the abstraction module *could* operate at the server. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (“[T]here must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”).

We note Petitioner further argues that combining Mahajan and Aldrey would have provided a system where “Aldrey’s end terminal would translate commands associated with a first type of media playing application to a command associated with a second type of media playing application on a STB.” Pet. 66–67; *see also id.* at 66 (“Mahajan’s server-command teachings could be implemented on Aldrey’s end terminal remote control.”). Arguing that Aldrey’s *end terminal* would translate commands seems inconsistent with Petitioner’s earlier argument for locating Mahajan’s abstraction module (which translates commands) at Aldrey’s *network service provider*. *See id.* at 65–67. Moreover, it is not readily apparent how command translation by Aldrey’s end terminal—rather than Aldrey’s network service provider—teaches or suggests the format of a command sent from the end terminal to the network service provider is different from the format of a command sent from the network service provider to the STB. Petitioner does not close these logical gaps.

3. Summary

In view of the foregoing, we determine that Petitioner has not demonstrated a reasonable likelihood of showing that claims 1, 12, and 17 would have been obviousness over Aldrey and Mahajan. Claims 2–11, 13–16, and 18–20 depend from claims 1, 12, or 17. We have reviewed Petitioner’s contentions regarding these dependent claims and note that they rely on the same analysis for the limitation of claim 1 discussed above. *See* Pet. 69–76, 78–79, 82–83. Accordingly, we also determine that Petitioner has not demonstrated a reasonable likelihood of showing that claims 2–11, 13–16, and 18–20 would have been obvious over Aldrey and Mahajan.

V. CONCLUSION

For the reasons given above, we deny Petitioner’s Joinder Motion. We also determine Petitioner has not demonstrated on the record before us a reasonable likelihood that it would prevail in showing the unpatentability of any of the challenged claims of the ’751 patent. Therefore, we do not institute trial.⁶

VI. ORDER

Accordingly, it is

ORDERED that the Petition is *denied* and no trial is instituted.

⁶ We additionally deny the Petition as time barred under 35 U.S.C. § 315(b). Section 315(b) normally bars institution of *inter partes* review when the petition is filed more than one year after the petitioner is served with a complaint alleging infringement of the patent. 35 U.S.C. § 315(b); 37 C.F.R. § 42.101(b). The one-year time bar, however, does not apply to a request for joinder. 35 U.S.C. § 315(b). Petitioner filed its Petition on August 9, 2024 (*see* Paper 4), and states that the ’751 patent was “first asserted in a First Amended Complaint served on May 25, 2023.” Pet. ix. As discussed above, we deny Petitioner’s Joinder Motion. Accordingly, because Petitioner was served with a complaint alleging infringement of the ’751 patent more than one year before the filing of the Petition, the Petition is time-barred under 35 U.S.C. § 315(b). Therefore, we do not institute an *inter partes* review on any of the asserted grounds as to any of the challenged claims for this additional reason.

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