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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENIUS SPORTS LTD.,
Petitioner,

v.

SPORTSCASTR, INC.,
Patent Owner

IPR2024-01305 (Patent 10,805,687 B2)
IPR2024-01307 (Patent 10,805,687 B2)
IPR2024-01308 (Patent 10,425,697 B2)
IPR2024-01309 (Patent 10,425,697 B2)
IPR2024-01310 (Patent 11,039,218 B1)
IPR2024-01311 (Patent 11,039,218 B1)

Held: December 18, 2025

Before THU A. DANG, STEPHEN E. BELISLE, and
JON M. JURGOVAN, *Administrative Patent Judges*.

The above-entitled matter came on for hearing on December 18, 2025, commencing at 10:00 a.m., at the United States Patent and Trademark Office in Alexandria, Virginia.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

W. TODD BAKER, ESQ.
NIKHIL R. KRISHNAN, ESQ.
SOCRATES L. BOUTSIKARIS, ESQ.
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 389-5000
w.baker@kirkland.com
nikhil.krishnan@kirkland.com
socrates.boutsikaris@kirkland.com

ON BEHALF OF THE PATENT OWNER:

ANDREW J. COCHRAN, ESQ.
BRITTON F. DAVIS, ESQ.
Cahill Gordon & Reindel LLP
32 Old Slip
New York, NY 10005
(212) 701-3320
acochran@cahill.com
bdavis@cahill.com

1 P R O C E E D I N G S
2 - - - - -
3 JUDGE JURGOVAN: Good morning, everyone and
4 welcome. This is the trial hearing for IPR2024-01305 concerning
5 Patent 10,805,687 B2; IPR2024-01307 involving Patent
6 10,805,687 B2; IPR2024-01308 involving Patent 10,425,697 B2;
7 IPR2024-01309 involving Patent 10,425,697 B2; IPR2024-01310
8 involving Patent 11,039,218 B1; and IPR2024-01311 involving
9 Patent 11,039,218 B1.
10 It is December 18, 2025, approximately 10:00 a.m.
11 Eastern. On the panel today are Administrative Patent Judges Thu
12 Dang, Stephen Belisle, and myself, Jon Jurgovan.
13 Would the parties please enter their appearances, starting
14 with the Petitioner, please.
15 MR. BAKER: Good morning, Your Honor. Todd Baker
16 here on behalf of Petitioner, Genius Sports. Here with me today
17 are Nikhil Krishnan and Socrates Boutsikaris.
18 JUDGE JURGOVAN: And with what firm, please?
19 MR. BAKER: And we are with Kirkland & Ellis.
20 JUDGE JURGOVAN: Thank you. For Patent Owner.
21 MR. COCHRAN: Good morning, Your Honors. My
22 name is Andrew Cochran of Cahill Gordon & Reindel on behalf of
23 Patent Owners. With me today is my colleague Britton Davis also
24 with Cahill Gordon & Reindel.

1 JUDGE JURGOVAN: Thank you very much. The
2 hearing order stated that each party will have up to 60 minutes to
3 present their arguments. In this case, Petitioner filed a LEAP
4 request that was accepted, so there'll be an additional 15 minutes of
5 argument time afforded to the Petitioner in this case. Petitioner
6 bears the burden of proving its case by preponderance of the
7 evidence. So Petitioner will start out with its presentation
8 followed by Patent Owner.
9 Each party can reserve time for rebuttal limited to the
10 opposing party's presentation. You may share your demonstratives
11 with us, or you may identify what you're looking at in your
12 presentation and we'll follow along. When you're referring to
13 papers or exhibits, please do so by page number or -- well, as
14 appropriate, by column and line number so that the record will be
15 clear as to what you're referring to in your presentation.
16 Please identify yourselves when you speak the first time
17 so the court reporter will know who you are. And also after the
18 hearing, please do remain in the room so that the court reporter can
19 ask you any questions that she may have regarding your
20 presentations.
21 This is a public hearing. It's possible that people are
22 listening on the public line. None of the information identified in
23 the record has been indicated as confidential. And if for some
24 reason you need to discuss confidential information, you need to
25 let us know so we can close the public line.

1 Do the parties have any further questions before we
2 begin? Hearing none. Petitioner, how much time would you like
3 to reserve for rebuttal?
4 MR. BAKER: Your Honor, this is Todd Baker. On
5 behalf of Petitioner, we would like to reserve 15 minutes for
6 rebuttal.
7 JUDGE JURGOVAN: Fifteen minutes, okay. Patent
8 Owner, how much time would you like to reserve for rebuttal?
9 MR. COCHRAN: This is Andrew Cochran. I want to
10 (INAUDIBLE - TECHNICAL DIFFICULTY).
11 JUDGE JURGOVAN: I'm sorry, I didn't hear you.
12 MR. COCHRAN: Fifteen minutes.
13 JUDGE JURGOVAN: Fifteen, thank you. Petitioner,
14 when you're ready.
15 JUDGE BELISLE: And before we begin, I'd just like to
16 confirm if the court reporter -- our virtual court reporter is in fact
17 on and able to hear what's happening?
18 COURT REPORTER: Yes, I am on. And I'm able to
19 hear.
20 JUDGE BELISLE: Thank you.
21 COURT REPORTER: Thank you.
22 JUDGE JURGOVAN: When you're ready.
23 MR. BAKER: Yes. Thank you, Your Honors. Again,
24 this is Todd Baker speaking on behalf of Petitioner Genius Sports.
25 I'm going to start today with an overview of the challenge claims

1 and the grounds presented in the various petitions. I'm also going
2 to address the primary issue across the IPRs, whether the
3 combination of Ellis and Spivey and Herzog and Spivey render
4 obvious the claimed socket server arrangement.
5 My colleague, Nikhil Krishnan, will discuss the web
6 server issue which is limited to the '218 Patent IPRs. He will also
7 discuss the online gaming information issue. Lastly, my colleague
8 Socrates Boutsikaris will address Patent Owner's evidence of
9 secondary considerations.
10 Your Honors, turning to Slide 4. For today's discussions,
11 unless the Board has questions directed to another challenged
12 claim, we are going to focus our attention on Claim 1 of the '687
13 Patent as a representative claim. Claim 1 is reproduced on the left
14 of this slide and is directed to a system for providing live
15 streaming video digital content of a live sporting event along a first
16 communication path to a first viewer device. That's shown in dark
17 blue, Your Honors.
18 The system also provides event information germane to
19 that sporting event along a second communication path to the first
20 viewer device. And that path is shown in purple. A plurality of
21 media sources are also provided. The media sources receive first
22 and second live streams of the digital content and provide a first
23 copy of the first video live stream and a first copy of the second
24 video live stream to the first viewer device.
25 The system further includes a control server, which

1 retrieves event information germane to the first live sporting event
2 and a socket server coupled to that control server. The socket
3 server receives from the control server the first event information
4 and transmits the first event information to the first viewer client
5 device through a first event socket of the socket server. The first
6 event socket corresponds to the first event information.
7 Your Honors, for your reference, we have identified the
8 grounds presented in each of the petitions. There is a substantial
9 amount of overlap. We would point out that each ground relies on
10 Ellis or Herzog as the primary reference. Spivey is primarily
11 relied upon to teach the socket server related features. And for the
12 '218 Patent, Herzog is relied upon to teach the web server related
13 limitations.
14 Your Honors, unless there are any questions with regards
15 to the claims and the grounds, I'm going to be jumping around a
16 little bit in our slide deck. I will be sure to tell you which slide I'm
17 looking at. First, I'd like to turn your attention to Slide 27. Your
18 Honors, Figure 1 of Ellis is shown on the left and Figure 4 of
19 Spivey is on the right. Ellis has many overlapping features as the
20 claim recites. Ellis transmits video, shown in blue, and data from
21 multiple sources to a client device along separate communication
22 paths.
23 A supplemental content source identified as Element 120
24 supplies the data to a client device and the content source 130
25 supplies video content to the client as well. Spivey, on the other

1 hand, discloses backend architecture for a data channel which
2 enables real time delivery of sports-related data to a client device
3 with reduced latency.
4 I'm going to go to Slide 28 next. In order to upgrade
5 Ellis' supplemental content source, the combination uses Spivey's
6 topic queue architecture and push technology to improve the real-
7 time delivery of sports-related data to the client's viewing device.
8 That improved data connection between Spivey's message queue
9 server device and Ellis' client device are shown in green 152-1 and
10 152-n. Each of the green lines connects to a specific topic housed
11 in the socket server.
12 Ellis' video content source 130 and the path 150 between
13 the content source and the client viewing device remain unchanged
14 from the Ellis reference and that's shown in blue.
15 JUDGE BELISLE: Counsel, this is Judge Belisle. Can
16 you just tell us a little bit about the status of the use of socket
17 servers in communication at the time of this invention? How well-
18 known was that?
19 MR. BAKER: Socket servers were well established at
20 this time. There was a protocol identified as websockets which
21 had been adopted and that was a socket-type technology that
22 enabled bidirectional communication between two devices. Once
23 there was a handshake at the beginning of that connection, the
24 devices were able to speak with each other to push data between
25 each other. So the concept of socket servers and sockets in

1 particular were well-known.

2 JUDGE BELISLE: Is it also true that it was well-known

3 to use a socket server to be able to communicate sort of from one

4 source to many sources?

5 MR. BAKER: From one-to-many, yes, I would say so.

6 Most servers are connected to multiple clients. So the one-to-

7 many concept was also well-known, yes, Your Honor.

8 Turning your attention to Slide 31, please. Patent Owner

9 has three primary arguments challenging the combination that's

10 been presented in the petitions. First, the first challenge is that

11 Ellis and Spivey are not compatible. Their second argument is that

12 there's no motivation to combine. And their last argument is the

13 combination is inoperable.

14 We would like to start with the last argument first.

15 Whether the Ellis combination is inoperable because it lacks

16 Spivey's live data access server, I'll refer to that as the LDAS.

17 Patent Owner contends that the LDAS is required by Spivey; and

18 absent that LDAS, which is not in our proposed combination, the

19 combination would be inoperable. But that's just not correct. And

20 I want to take some time and walk through and explain why that's

21 the case.

22 First, I would turn your attention to paragraph 38 of

23 Spivey, which makes clear that the system 100 may include an

24 LDAS. Your Honors, there's no disclosure in Spivey that indicates

25 that the LDAS is required.

1 Slide 18, please. Patent Owner and their expert, Dr.
2 Rubin, dispute that the phrase "may include" would inform a
3 POSA that the LDAS is optional. When asked in his deposition
4 how a POSA knows when "may include" means a component is
5 optional and when "may include" means the component is
6 required, Dr. Rubin testified, you would have to ask Spivey.
7 In addition to being a little disingenuous, Dr. Rubin's
8 testimony does little to resolve the issue. Slide 19, please. But
9 common sense tells you that "may include" means that the
10 structure or component is optional. The institution decisions in
11 this case reach the same conclusion with respect to Ellis's database
12 122, which the institution's concluded when the term "may be" or
13 the phrase "may be" was used, they concluded that the phrase
14 "may be" means optional. That same rationale applies to Spivey's
15 use of the phrase "may include."
16 Can we go Back to Slide 17, please? Your Honor,
17 contextual clues and express disclosures throughout Spivey that
18 the LDAS is an optional component. Paragraph 36, which is
19 shown here in the left corner of the slide, for example, explains
20 that in some embodiments the MQSD is not accessible to clients
21 over the network directly. The clear inference from this passage is
22 that in other embodiments, the MQSD is directly accessible to
23 clients over the network, and hence an LDAS is unnecessary.
24 Turning your attention to paragraph 46 there, Spivey
25 expressly indicates that in an embodiment, the message queue

1 server, quote, "may push data from topic queues to the subscribers
2 of the topics corresponding to those topic queues. Your Honors,
3 this discussion in paragraph 46 is an express disclosure that there
4 is an embodiment where the MQSD communicates directly with
5 the client devices.
6 This embodiment in particular is related to Spivey's
7 Figure 3 operating environment. We can take a look at that if you
8 go back to Slide 27. We're showing Figure 4, which is an
9 alternative embodiment. So I just want to make sure I'm clear.
10 There are three operating environments discussed in Figures 3, 4,
11 and 5 of Spivey. The first passage where I was talking about that
12 there's an express disclosure that there's a direct connection
13 between the MQSD and the client devices relates to the Figure 3
14 operating environment.
15 I now want to turn your attention to the Figure 4
16 operating environment, which is shown here on the right. This is
17 the environment that's used in the combination in the petitions.
18 Notably in this embodiment, the message queue server device 410
19 and the live data server device 450 are the only components
20 explicitly described and illustrated as being operated within this
21 particular environment.
22 Paragraphs 53 through 58 of Spivey do not mention an
23 LDAS in relationship to this embodiment, again, the embodiment
24 relied upon in the combination.
25 JUDGE BELISLE: Counsel, this is Judge Belisle. What

1 is the purpose of the LDAS to your sort of allocation of elements
2 in this case?
3 MR. BAKER: Absolutely, Your Honor. Thank you.
4 The LDAS has a useful function. One example is when there is a
5 firewall. If users are unable to access the MQSD directly because
6 of a firewall, the LDAS acts as a proxy. It will keep track of what
7 queues or topic queues that a user wishes to access and will go
8 behind the firewall when data's being pulled; or I should say being
9 pushed from the MQSD, receive that data, and then provide it to
10 the client.
11 And that will be discussed with reference to Figure 5. I'll
12 turn there in a second. But there is a role for the LDAS in some
13 embodiments and that's when the MQSD is unavailable for direct
14 connections with the client devices.
15 JUDGE BELISLE: And is there any reason a skilled
16 artisan would understand how to incorporate all of those functions
17 within one server?
18 MR. BAKER: Absolutely, Your Honor. In Figure 22, if
19 we could turn there. I think we can see that in Slide 20. In the
20 bottom right corner there, it's shown that Spivey contemplated
21 what they call a distributed system where the client device
22 communicates directly with a single server. Illustrated in that
23 server is just an LDAS.
24 But as explained in paragraphs 158 and 160, that single
25 server can also include an MQSD. So there's also this embodiment

1 wherein, as you asked, there is a single server because it's really
2 just a function line drawing that handles all the functionality we
3 discussed. The LDAS, again, is useful when there are multiple
4 servers and the MQSD is behind the firewall.
5 JUDGE JURGOVAN: Counsel, did the petition cover
6 this situation where you can have the LDS -- the LDAS and the
7 MQSD together in one server?
8 MR. BAKER: Your Honor, we discussed that in our
9 reply. We did take on the topic or the issue of it being optional,
10 that the LDAS is optional. And we explained that it would be
11 unnecessary in our combination. In response to Patent Owner's
12 argument that it would be required, we pointed to Figure 22 as part
13 of our evidence that no, it's not required because there is a
14 description of an embodiment where the client communicates
15 directly with a single server that houses both the MQSD and the
16 LDAS.
17 JUDGE JURGOVAN: Okay. But did the petition
18 include the embodiment where the LDAS and the MQSD are
19 together in one server?
20 MR. BAKER: Yes. In a single server?
21 JUDGE JURGOVAN: In a single server.
22 MR. BAKER: No, Your Honor. The embodiment that
23 the petition relies upon relates to operating environment 4. In that
24 embodiment, you have two servers, you have an LDSD, which
25 equates to the claimed control server, and you have the LDAS

1 -- I'm sorry, the MQSD. I'm sorry for misspeaking. The MQSD
2 corresponds to the socket server. So in that embodiment, there is a
3 single socket server, the MQSD, but there is no reliance on an
4 LDAS.
5 JUDGE JURGOVAN: Thank you.
6 MR. BAKER: Your Honors, unless there are any other
7 questions on the optionality of the LDAS, I would like to respond
8 to Patent Owner's next argument. Let's go to Slide 34. Patent
9 Owner argues that these two systems, Spivey and Ellis, are
10 incompatible. But paragraph 41 of Ellis clearly informs a POSA
11 that the supplemental content source can be any suitable content
12 source configured to provide real-time sports.
13 Ellis is what I would describe as an agnostic system as it
14 relates to the ability for the clients and the server to communicate.
15 It doesn't discuss whether it's a push system or a pull system. It
16 just says it can be any system that can provide real-time sports.
17 Spivey, on the other hand, expressly indicates that it is a push type
18 of data system which reduces latency over prior art systems that
19 utilize push technologies.
20 Can we go to Slide 30, please? Your Honors, the
21 motivation to combine Ellis and Spivey is straightforward. Ellis'
22 architecture is nearly identical to the claimed architecture. Ellis'
23 supplemental content source is just lacking in some details. And
24 those details would have been implemented by a POSA to improve
25 the real-time performance Ellis' supplemental content provider

1 lacked.

2 As explained by Dr. Wicker, who is Petitioner's expert, a
3 POSA would have been motivated to implement real-time data
4 delivery using Spivey's data pushing technique to reduce latency.
5 As pointed out in paragraph 96, which is shown here on the right,
6 data pushed to a client device benefits from latency of 100
7 milliseconds or less. So there's a clear technical rationale why
8 you'd want to use Spivey's push technology in Ellis.

9 Your Honors, turning your attention to Slide 24.

10 JUDGE JURGOVAN: Before you move on, can you
11 explain the difference between push and pull?

12 MR. BAKER: Absolutely, Your Honor. So you may
13 recall when email was first available on handheld devices. When
14 they first came out, when a user wanted to synchronize his email
15 box on his phone with his email on the server, he would have to
16 make a request, please synchronize and pull from the server any
17 emails that I need to receive on my phone. So that's a pull
18 architecture where the client device has to request the data.

19 After a few years of emails being operated in that
20 fashion, the system's changed over to a push configuration. In that
21 scenario, as soon as email hit the email server at the client's
22 enterprise, it would be immediately pushed out to the client's
23 telephone. That takes less time. There's reduced latency. Instead
24 of having to request, hey, is there any new data for me to see?
25 Under a push architecture, the data is pushed out immediately

1 upon receipt, improving time delivery.
2 JUDGE JURGOVAN: So wouldn't any video or audio
3 streaming technology be a push technology? That is pushing the
4 data down to the client device, right, which is, I assume, buffering
5 and then presenting it to the user.
6 MR. BAKER: 100 percent, Your Honor. The video is
7 going to have any delay associated with the delivery from the
8 broadcaster to the client device. There's a built-in time for that
9 video to reach the client device. But what we're talking about here
10 is the timing of the related meta-data, the related sports data. How
11 much time is left in the game? What's the yardage? What's the
12 score? That data, if you want to provide real-time data associated
13 with the video, you want reduced latency. You want that data to
14 arrive at the phone as quickly as possible.
15 JUDGE JURGOVAN: Makes sense. Thank you.
16 MR. BAKER: Your Honors, let's turn to the last issue
17 raised by Patent Owner as it relates to this first combination. Can
18 we go to Slide 24, please? The last issue is whether or not
19 Spivey's topic queues are uniquely addressable communication
20 endpoints and thus correspond to the claimed sockets provided in
21 the socket server.
22 I'm going to start with the bottom paragraph, paragraph
23 82. As discussed there -- and this is from Spivey and I'm looking
24 at Slide 24. A client device uses an address which, quote, "may
25 resemble a uniform resource locator" to connect to a server

1 housing the message queue server device. That's where the topic
2 queues are located.
3 And then if you turn your attention to paragraph 66 of
4 Spivey, that's on the top of the screen, it indicates that the topic
5 label can be in the form of a text string, for example,
6 "gamecenter.nfl.ravenssteelers," which also resembles a uniform
7 resource locator. Your Honors, as an analogy, I would look at it
8 this way, the URL which is discussed in paragraph 82 is like a
9 phone number for connecting to the server where the topic queues
10 are stored.
11 The topic labels are the phone number extension where
12 the topic queues can be found within the server. So when you look
13 at the URL in combination with the topic labels which identify the
14 topic queues, you have a uniquely addressable communication
15 endpoint.
16 Slide 12, please. Dr. Rubin served as Patent Owner's
17 expert. And during his cross examination, he was asked to explain
18 what constitutes an event socket according to the '218 Patent.
19 Patent Owner's expert responded, a URL is sufficient. So both the
20 '218 Patent specification and the way Spivey identifies its topic use
21 both utilize a form of a URL to identify where the socket can be
22 located.
23 Unless you have any questions regarding the uniquely
24 addressable communication endpoint topic, I would like to turn to
25 the second combination.

1 JUDGE JURGOVAN: Just one question before you
2 move on. So you accept that a socket is something that is uniquely
3 addressable?
4 MR. BAKER: Yes.
5 JUDGE JURGOVAN: And it's an endpoint?
6 MR. BAKER: Yes. That is not in dispute.
7 JUDGE JURGOVAN: Okay. Thank you.
8 MR. BAKER: Can we go to Slide 8, please? So the
9 second primary reference is Herzog. Herzog, like Ellis and the
10 challenged claims, transmits video and related data to a client
11 device using separate channels. Figure 5, which is shown here and
12 paragraph 16, which is recited also reads, for example, video,
13 audio, and meta-data may be transmitted from a sports venue via
14 different communication paths and at different rates.
15 And Your Honor, I apologize that paragraph 16 that I just
16 quoted is in the specification, but it is not shown on this particular
17 slide. So what I just read was from paragraph 16 of Herzog.
18 Can we go to Slide 38, please? Your Honors, the
19 Herzog-Spivey combination upgrades Herzog's origin server,
20 which is a subcomponent of what Herzog refers to as a solutions
21 integrator, which is Element 44, the box 44 which is in the bottom
22 middle portion of Figure 4. By using Spivey's backend server
23 architecture, including the MQSD, shown in the right, and Spivey's
24 push technique which we just discussed, Herzog server
25 architecture would experience a reduction in server load, meaning

1 otherwise, let me pause.

2 By reducing the load on a server, that means the server is
3 less busy, there are fewer processes that it has to take, fewer
4 actions, there's less load on the server, less calls between the server
5 and client devices. So when we speak of reduced load, we're
6 talking about the activity level of the server.

7 JUDGE BELISLE: Counsel, this is Judge Belisle.
8 Patent Owner makes an argument regarding Herzog and latency
9 that Herzog's design relies on latency and that the skilled artisan
10 will not look at Herzog and then try to take away that latency.
11 What's your response to that?

12 MR. BAKER: So Herzog is attempting to synchronize
13 video and data. And as part of that, as I discussed earlier with
14 video, there is a natural latency when that video is being delivered
15 to the end user device. Herzog recognizes that latency and has a
16 specific technique for synchronizing the video with the data using
17 timestamps.

18 If we turn our attention to -- and this is a figure which is
19 not in the slide deck -- it is in the Slide deck but is annotated in a
20 certain way. We like to look at a clean version. If we can go to
21 Figure 6 of Spivey. One second, Your Honor. I apologize, Figure
22 6 of Herzog, I misspoke. Can you rotate? So Your Honor, if you
23 look here at the screen, you'll see numbers 1 through 8. Number 1
24 is on the client APK; number 2 is on the solutions integrator;
25 number 3 is below. These are the sequence of events that are

1 described with regards to Herzog.
2 I would like to pick up in the process at sequence 4. As
3 you can see there, there's what's referred to as an HLS listener that
4 resides on the client's APK. The process is described in Spivey
5 -- I'm sorry, in Herzog that the user first receives video without
6 any related or associated data. The client first receives video.
7 Thereafter, the client requests the data which relates to that video.
8 So in sequence 4, the client's receiving that video.
9 Once the client requests the related data, the client
10 timestamp indicating where in the video is currently being viewed,
11 that timestamp is sent from the HLS listener to the listener request.
12 So any latency for the video is already built in because it's been
13 received by the client.
14 In order to synchronize the video with the related meta-
15 data, the listener request sends the timestamp to what's called an
16 EPR (sic) server, which resides in Herzog's solutions integrator.
17 Periodically, that listener request has to send another request for
18 the data to synchronize. So there are multiple calls between the
19 listener request and the ERP server to request meta-data to
20 synchronize with the video. So there's a first request, there's a
21 second request, there's a third request. These requests effectively
22 constitute a pull for data, like I discussed with the old mobile
23 phones for emails.
24 The combination that's presented in the petition would
25 remove these repeated calls for the meta-data. In the combination,

1 there would be a first call as a handshake between the listener
2 request 5 and the ERP server. After that handshake, in a push
3 embodiment, the meta-data would be pushed from the ERP server
4 to the client without further request. By reducing the number of
5 requests, you've also reduced the load on the server.
6 And as you understand, because there are multiple clients
7 connected to the server, any reduction in calls between the client
8 and the server significantly impacts the load reduction on the ERP
9 server. So yes, although there is this assumed latency in the
10 Herzog system, a pull architecture is being used and can be
11 improved upon by using the push architecture or push technique
12 discussed by Spivey.
13 And Your Honors, we would turn your attention to Slide
14 41.
15 JUDGE JURGOVAN: Before you move on, isn't this
16 just a matter of timestamping the video data and the meta-data?
17 You have timestamps on each and you send them both streams to
18 the client device. Why couldn't the client device match those
19 timestamps and display it accordingly?
20 MR. BAKER: They are doing the synchronization, but
21 the question is how are they getting the timestamps and the meta-
22 data from the server?
23 JUDGE JURGOVAN: Right.
24 MR. BAKER: There is a process for obtaining that data.
25 And what we're pointing out is in lieu of multiple requests to get

1 the meta-data with the timestamps to do the matching, if you use a
2 push technique, that timestamped meta-data would arrive for
3 synchronization without those multiple calls.
4 JUDGE JURGOVAN: Are you saying that the meta-
5 data would be delivered in a synchronized manner so that when it's
6 received it can just be displayed without any examination by the
7 client device of the timestamps of the two streams?
8 MR. BAKER: The client would do the synchronization.
9 So in lieu of it being -- the meta-data being buffered at the ERP
10 server awaiting requests for it, which is how Herzog does it,
11 instead of it being buffered, it would be immediately pushed to the
12 client and then the client would do the synchronization.
13 JUDGE JURGOVAN: Thank you.
14 MR. BAKER: Of course. If we go to Slide 41, Dr.
15 Wicker testified regarding this motivation. He indicated in his
16 testimony that Herzog utilizes a "pull-based" architecture which
17 results in increased server load due to the volume of individual
18 requests. He indicated that this approach contrasts with Spivey's
19 "push-based" architecture in which data is delivered to clients
20 immediately and explained what we just discussed.
21 How by reducing the number of calls to the server, you're
22 reducing its load. And because there are multiple clients making
23 these requests to the server, that reduction is significant.
24 Your Honors, we also would like to point out that Dr.
25 Wicker's testimony at this point is unrebutted. This was presented

1 in his supplemental declaration. Patent Owner elected not to cross
2 examine him on this testimony. So any response is mere attorney
3 argument.
4 JUDGE BELISLE: Counsel, in Herzog, why does it ask
5 multiple times for the data? If it has the timestamp, why does it
6 make multiple inquiries?
7 MR. BAKER: It's being pulled from the buffer in the
8 ERP server. So I need more meta-data. It requests more meta-
9 data, then it does the synchronization, then it sends it to the user
10 device.
11 JUDGE BELISLE: Oh, it's not pulling it multiple times
12 for the same time. It's just multiple times.
13 MR. BAKER: Yes, exactly, Your Honor. Your Honor,
14 unless you have any additional questions, I believe I'm going to
15 turn the argument over to my colleague, Nikhil Krishnan, to
16 discuss the web server issue.
17 MR. KRISHNAN: Thank you.
18 COURT REPORTER: And before we begin, if you
19 could please spell your name for the record. Thank you.
20 MR. KRISHNAN: Sure. It's N-I-K-H-I-L is my first
21 name, last name is K-R-I-S-H-N-A-N. Good morning. I'm Nikhil
22 Krishnan. On behalf of the Petitioner, I will be addressing the two
23 issues that are unique to the '218 Patent, that's the web server
24 limitation and the online gaming information.
25 We could actually skip ahead to Slide 82 first. So what

1 we have in Slide 82 is Claim 1 of the '218 Patent. And this is
2 where the web server limitation appears. If you look at Limitation
3 C that's at the bottom of the claim, the claim requires a web server
4 that transmits to the client device an address of a media source and
5 a socket address of an event socket. So the web server is simply
6 providing the client device with the information it needs to get the
7 content from those two sources, the media source and the socket
8 server.
9 Now, the petition relies on Herzog for its disclosure of a
10 web server, which Herzog calls an application server. There's no
11 dispute that Herzog discloses a web server, but rather what the
12 Patent Owner has argued is that Herzog discloses a so-called relay-
13 type web server and that the claims require an orchestrator-type
14 web server. That's the relay versus orchestrator. Those are terms
15 that the Patent Owner's expert uses. They're not terms in the
16 patent.
17 But just focusing on the claim language and just to allow
18 us to orient ourselves to why the expert's making that argument
19 -- Patent Owner's expert's making that argument, we can see that
20 the web server is simply providing addresses for where to get
21 content rather than providing the -- need to provide the content
22 itself. And so the Patent Owner's expert refers to that as
23 orchestrator type instead of relay type.
24 If we turn to Slide 43 and we look at how Patent Owner's
25 expert, Dr. Rubin, actually describes these two techniques of relay

1 versus orchestrator, we see that these are really just two alternative
2 techniques for accomplishing the same goal. This is a common
3 goal of web servers, a traditional conventional goal of web servers,
4 which is to get content to a client device.
5 Dr. Rubin explains that in a relay type, the web server
6 will receive and send all the content between clients and some
7 source. Whereas in an orchestrator type, the orchestrator web
8 server will directly -- direct the client to the source of the -- of that
9 content. So in other words, relay -- the web server is providing the
10 content itself from some source. In an orchestrator type, the web
11 server is providing the client with the information it needs to get
12 that content from some other server. But the end goal is the same.
13 There's no dispute here that both orchestrator and relay techniques
14 were well understood techniques for accomplishing this goal of a
15 web server.
16 If we turn to Slide 44, this is Herzog's disclosure -- an
17 exemplary disclosure from Herzog as to how its application server
18 functions. Now, Dr. Rubin calls it a relay server. It's not actually
19 totally accurate. If we look at what Herzog is doing. It is
20 facilitating the delivery of content to a client device, which is the
21 same purpose that the web server and the '218 Patent has.
22 Looking at paragraph 58 from Herzog, which is on the
23 right, the application server that's the web server is configured to
24 receive the request from the client application software and begin
25 sending the meta-data via the ERP server 52. And so the

1 application server is receiving the request and then the content is
2 getting provided to the client device from my second server, the
3 ERP server.
4 We see that in Figure 6 in yellow, the request for meta-
5 data is made via the application server and then the actual meta-
6 data itself is coming from the ERP server, second server in green
7 at the bottom. So fundamentally, Herzog's application server is
8 facilitating the delivery of content to the client device, again, the
9 same role that we see in the '218 Patent.
10 Turning to Slide 45, this is the illustration that Dr.
11 Wicker provided of the combination of Ellis, Spivey, and Herzog.
12 These are the Ellis-based grounds. So in Ellis, Ellis needs to get
13 both video and data. Ellis refers to the video as content and the
14 data as supplemental content. And in this case, Ellis gets the video
15 from the content server in blue -- Ellis' client gets video from the
16 content source in blue, and it gets data from a supplemental
17 content source, which in this combination would be implemented
18 using Spivey's data architecture.
19 What Ellis leaves unsaid, however, is how does a client
20 device know where to connect to the content source or the
21 supplemental content source? And what Dr. Wicker has explained
22 is that a conventional technique for providing the client device
23 with that type of information is a web server and a web server that
24 can provide addresses.
25 So to be clear, this is not so much a modification, the

1 inclusion of an application server here, not so much of a
2 modification of Ellis', rather filling in details as to how the client
3 device or user equipment device is going to have the information it
4 needs to make the connections to get content. Now, Dr. Wicker
5 also supported his opinions, turning to Slide 46, as to what is the
6 knowledge of a POSITA and the well-understood functionality of
7 web servers using a background reference. This is the Iacono
8 reference, Exhibit 1068.
9 And Iacono is describing an architecture for streaming
10 video to a client device. And it describes the exact type of
11 scenario or setup, conventional setup, that we see in the '218
12 Patent. The client device is -- once needs to access a website or
13 web page, it reaches out to the web server and downloads the web
14 page containing JavaScript from that web server.
15 That JavaScript includes the instructions that the client
16 device -- instruction and information that the client device needs to
17 connect to a second server, the Media Server, in order to get the
18 video. So we see the request for information from the web server
19 in yellow and then we see the connection being made to the media
20 source in blue. And this is the same scenario, conventional
21 scenario, that the '218 is contemplating. Dr. Wicker relied on
22 Iacono just to show and illustrate what is the knowledge of a
23 person of skill as to the conventional functionality of a web server.
24 Turning to Slide 48. So fundamentally, Dr. Wicker
25 explained that -- and this is his supplemental declaration that

1 there's no radical difference between a relay technique versus an
2 orchestrator technique. At its core, these architectures are trying to
3 accomplish the same goal, which is using a web server as a central
4 point for client interaction and resource delivery. These are just
5 two known techniques out of a finite set of options.
6 Lastly, turning to Slide 49, the Patent Owner has -- and
7 its expert has suggested that the addition of a web server, an
8 orchestrator-style web server to Ellis would add -- introduce
9 latency. But that's just not the case. In this combination, all the
10 web server is doing is providing the information that the client
11 needs to make its connections. From that point on, the client is
12 getting content directly from the media source, getting data
13 directly from the socket server. So there's no additional hops for
14 the actual content to get to the client device.
15 So pausing there, does -- are there any questions with
16 regard to the web server limitation? No? Okay.
17 So turning to Slide 50. Before I actually get into online
18 gaming information, I just want to note that while we're on this
19 roadmap slide, that Claim 21 of the '218 Patent does not require a
20 web server. It does not require a socket server, does not require
21 event sockets. So all the disputes we've talked about up until this
22 point fall away for that claim and its dependent claims.
23 So looking at online gaming information, online gaming
24 information is the type of event information that the '218 Patent
25 claims. So it's just some of -- some claims refer to event

1 information and then further specify online gaming information.
2 Some claims just refer to online gaming information. It's just a
3 type of event information.
4 Turning to Slide 51. So this is addressing Ellis first -- the
5 Ellis Grounds first. The Patent Owner's POR included a
6 throwaway line that Ellis does not disclose online gaming
7 information. But what we see very clearly disclosed in Ellis is the
8 provision of data such as spread and wagering data. That's Ellis'
9 paragraph 41 in the bottom, odds and spreads; that's paragraph 98
10 in Ellis at the top.
11 And this is all part of a wagering or gaming functionality
12 that Ellis provides as part of its interactive sports watching
13 application. And we see that in Figure 6 there's a button to go in
14 and place a wager on the game you're watching. There's no
15 dispute that this type of information, odds and spreads, are online
16 gaming information that qualifies.
17 Turning to Slide 52 and addressing Herzog. So PANDA
18 -- the Patent Owner appears to be arguing that -- now, in this
19 proceeding, that online gaming information refers only to odds and
20 spreads. But that's not the position they took in the District Court.
21 What we have on Slide 52 is the Markman order, the claim
22 construction order from that District Court proceeding. The Court
23 construed this term "online gaming information" as plain and
24 ordinary meaning, that's at the bottom. And then we see at the top
25 highlight what PANDA said about that played in ordinary

1 meaning, which is they said that an online gaming information is
2 information used for, or relevant to gaming conducted over the
3 Internet. So PANDA gave it a very broad definition, really,
4 anything that's relevant to gaming conducted over the Internet.
5 Turning to Slide 53, what we see in Herzog is --
6 JUDGE JURGOVAN: Before you go on, can I ask one
7 question here and that is, have any other terms of the claims
8 involved in any of these cases been construed by the District
9 Court?
10 MR. KRISHNAN: Yes. So going back to -- so we do
11 have Exhibit 1069, that's the claim construction order. There were
12 a few terms that were construed, event socket is one example. And
13 I think the parties have applied the definition of that term
14 consistently in this proceeding. So that was a socket dedicated to a
15 particular event, I believe. And so that's, you know, consistent
16 with the parties' discussion here. There's other terms as well, but
17 -- yup.
18 JUDGE BELISLE: Counsel, this is Judge Belisle. Is the
19 party's dispute here just as simple as one says online gaming
20 means online gaming, the other wants gaming to mean betting?
21 MR. KRISHNAN: So I think the dispute is maybe even
22 narrower than that. So I think we would proffer that, for example,
23 turning to Herzog, Herzog discloses advanced statistics, such as
24 telemetry data, lap number -- so this is in the example of your
25 game as a car race. It discloses providing information, like the lap

1 number, car speed, acceleration, tire pressure.
2 We would say that whether you're saying gaming is
3 -- gaming -- whether you're saying gaming is betting, this is
4 relevant information to that activity, regardless, you know.
5 Anyone who's participating in online wagering or online betting is
6 going to find this type of information relevant to estimating the
7 outcome - the likely outcome of the game. And they're going to
8 use that information when they're deciding whether to place a
9 wager.
10 So I think what Patent Owner has suggested is that it has
11 to be some very narrow set of, you know, odds and spreads. So,
12 like, not just information relevant to betting, but it has to be
13 something that a sports book itself would be putting out, which is
14 just contrary to the position they took in the District Court with
15 that fairly broad definition.
16 Are there any other questions on online gaming, Your
17 Honors? With that, I will turn it over to my colleague, Socrates
18 Boutsikaris.
19 COURT REPORTER: And before we begin, would you
20 please spell your name for the record?
21 MR. BOUTSIKARIS: Yes. It's S-O-C-R-A-T-E-S B-O-
22 U-T-S-I-K-A-R-I-S. Good morning, Your Honors. Socrates
23 Boutsikaris for the Petitioner. I'll be addressing PANDA's
24 arguments about secondary considerations. I want to note upfront
25 that we also have a pending motion to exclude certain exhibits

1 related to secondary considerations. But for the Board's benefit,
2 today, I'm going to jump right into the merits, explain why their
3 evidence is insufficient to overcome the strong showing of
4 obviousness. And then at the end of my argument, I'll return back
5 to the motion to exclude.
6 So first, jumping to Slide 56, I'm going to address the
7 nexus issue, which really is a threshold issue here. On Slide 56,
8 you have obviously the nexus standard. So to accord substantial
9 weight to evidence of secondary considerations, the evidence must
10 have a nexus to the claims.
11 And if we jump to the next slide, Slide 57, the reason I
12 wanted to talk about the merits upfront is because I think it's
13 important for the Board to understand how the record here has
14 developed with regards to secondary considerations. And with this
15 threshold issue of nexus, what you have here on the left is the
16 institution decision.
17 So what happened was the Board reviewed the
18 preliminary response, and they found that the Patent Owner did not
19 even attempt to show that a particular product embodies and is
20 coextensive with the claimed features. So they found that Patent
21 Owner was not entitled to a presumption of nexus.
22 They looked at the evidence, and they found that the
23 remaining arguments were conclusory and based on oversimplified
24 -- an oversimplified characterization of the claim technology. And
25 then just looking through the -- their responses to the arguments

1 that were presented to them, they found that the Patent Owner
2 stated without explanation that the evidence of industry praise
3 results directly from the claims and then again, stating without
4 explanation that the evidence of industry praise was a direct result
5 of the claimed invention.
6 So based on that analysis of the record before them at the
7 preliminary stage, the Board accorded little to no weight on this
8 nexus issue. And that's the threshold issue.
9 So what happened here, we had an invitation -- PANDA
10 had an invitation from the Board to develop this record. And what
11 they do in response, they essentially copied and pasted all of the
12 arguments, all of the evidence and put it into their Patent Owner
13 response. You can see an example of that on the right. They've
14 copied verbatim the same exact arguments.
15 They didn't take any time to further develop the record,
16 add additional evidence, add additional argument. They didn't
17 even address it in the sur-reply. It's almost as if they've completely
18 abandoned this theory. So because we have the same record today
19 as we had at the institution stage, we respectfully submit that we
20 should have the same result here where there -- no weight should
21 be given to the nexus issue.
22 If we go to Slide 58, please. I'll now jump through each
23 of the indicia, first, long-felt need. So on the left on Slide 59,
24 PANDA argues that the -- that there was an issue in the prior art.
25 There was a conventional video streaming systems that hard-

1 embedded event information, meaning that the event information
2 was in the video stream itself. And their solution was separating
3 those two channels into a separate video and event information
4 channel.
5 In their Patent Owner response, they concede that the
6 prior art, Ellis, that we've been discussing today, discloses separate
7 video and event information channels. So that is not long-felt
8 need.
9 If we jump to Slide 62 -- I'm sorry, 61. So the Board
10 looked at -- again, they had the same evidence. They presented
11 this evidence at the preliminary stage and today for you is the same
12 evidence. And at the institution decision, the Board also looked at
13 article from Dr. Rubin from 2015 that describes broadcast latency
14 being recognized by stream platforms around the mid-2010s.
15 And the Board correctly noted that the challenged claims
16 have priority to 2016 and 2017 -- or alleged priority to 2016 and
17 2017, which is the mid-2010s. So this is hardly -- this is
18 something that was happening at the same time, so same record
19 today, same result.
20 If we can jump to Slide 63, please. So on the issue of
21 industry praise, PANDA cites to various alleged accolades that it
22 received. There is no nexus here, that's the threshold issue.
23 PANDA fails to explain how its alleged awards relate to any
24 embodying product. And there's no relation for these award -- no
25 relationship between these awards and the claimed invention.

1 And if we jump to Slide 64, the Board also noted some of
2 the deficiencies with this industry praise evidence. For example,
3 Exhibit 2006 is an article quoted with quotes from the late NBA
4 commissioner, David Stern, where he described one of -- where he
5 was described as one of Sportscaster Life's high profile partners
6 and a founding investor. And the Board correctly noted that that is
7 not industry praise -- it's not the thoughts of the industry, it's a
8 founding investor. So the Board did not accord much weight at all
9 to any of this industry praise evidence, which is the same evidence
10 before you today.
11 We could go to Slide 68, please. So for the commercial
12 success indicia, the Board here accorded little to no weight to this
13 evidence. They noted that there was no evidence of significant
14 sales of the patented product. And PANDA has had nine months
15 now to develop the record to provide evidence, still no evidence of
16 significant sales. PANDA merely cites to its own advertisements
17 promoting things that are completely untethered to the claims. For
18 example, they cite to new ways to increase engagement, that is not
19 a claimed feature and there's no nexus. So as the Board found at
20 institution today, they should also find that there is no way to this
21 commercial success evidence.
22 And for the last indicia, if we could jump to Slide 66,
23 please. On the issue of copying, the Board accorded little to no
24 weight to this -- to the copying issue. There were two pieces of
25 evidence before the Board that are -- that is the same evidence

1 before the Board today. First was an infringement chart that Dr.
2 Rubin cited to. And he said in his report that he understands that
3 Patent Owner contends that the Petitioner launched its own sports
4 streaming platform and incorporated the claimed invention into its
5 own products. So this claim chart is from the parallel litigation
6 and it's their expert merely parroting whatever the attorneys have
7 argued.
8 And the Board notes that -- at the institution decision
9 notes that he does not appear to have developed his own opinion
10 regarding Petitioner's products and they accorded this evidence
11 little to no weight. Dr. Rubin has not provided any additional
12 opinion or anything about that infringement chart.
13 If we could jump to Slide 72, please. The second piece
14 of evidence in regards to copying are the two emails you see on
15 your screen here. PANDA has argued that this demonstrates that
16 the Petitioner had access to the alleged -- to the invention. In its
17 institution decision for IPR ending in 01311, Paper 10, at page 35,
18 the Board stated that based on the current record, we find that
19 these emails alone do not support sufficiently that Petitioner had
20 access to a patented product. And the Board accorded this
21 evidence little to no weight. Same thing here, no record has been
22 developed. There should be the same result.
23 So I'm going to now -- with the little time I have left, I'm
24 just going to quickly touch on the motion to exclude. If we could
25 jump to Slide 72, please. So --

1 JUDGE JURGOVAN: Yeah. Counsel, just to be clear,
2 if you're looking at that clock on the screen, that was starting with
3 your total time, so you're now into rebuttal time.
4 MR. BOUTSIKARIS: Okay. Well, I just --
5 JUDGE JURGOVAN: But I would like to just ask a
6 question about your motion to exclude.
7 MR. BOUTSIKARIS: Sure.
8 JUDGE JURGOVAN: You've said multiple times and
9 just referring in your past arguments here about the Board
10 assigning weight to the various arguments and materials, is there
11 any reason we shouldn't just do that with these materials, these
12 Exhibits, 2006, 7, 8, 9, 15, 16, and just assess them ourselves as
13 opposed to exclude them?
14 MR. BOUTSIKARIS: I think that would -- I think there
15 should be no weight. But at the same time, this evidence, which I
16 could go into -- although I'm limited with time, I would say this
17 should not even be something that the Board should review.
18 There's hearsay issues and there's authenticity issues. We do not
19 even know where these documents came from. There's no
20 declaration saying what these documents are. There's no URLs.
21 There's a hearsay issue. And for those reasons, we think that the
22 Board should not even consider them.
23 Should they consider them like the Board already found
24 that institution, we would say that the same result should apply.
25 And with that, I'll just rest on the papers given the time. But thank

1 you.

2 JUDGE JURGOVAN: Okay. Thank you. Patent

3 Owner, when you're ready.

4 MR. COCHRAN: Give me one second. Good morning,

5 Your Honors. May it please the Board. My name is Andrew

6 Cochran for Cahill Gordon & Reindel, on behalf of Patent Owner

7 SportsCastr, Incorporated, doing business as PANDA Interactive.

8 I have a couple of different places that I could start. I'll

9 give the Board the option. I have a few very specific rebuttals to

10 what the Petitioner argued included on its slides. And I can -- I

11 have prepared comments as well that I could start there. If there's

12 no preference, I can do the specific rebuttals first.

13 JUDGE BELISLE: Counsel, this is Judge Belisle. I

14 think right after the slide on the screen, it has a slide about

15 PANDA's three patents. And the text on there says, a

16 technologically improved one-to-many socket architecture. What

17 is Patent Owner's view as to what is technologically improved

18 about the socket architecture from their patent?

19 MR. COCHRAN: Sure. So at the time -- this is one of

20 the specific rebuttals that I was going to make to Petitioner's point.

21 At the time, it was not known of the one-to-many sockets. At the

22 time, the sockets were one-to-one. So the technologically

23 improvement in the patents is that novel one-to-many architecture

24 that did not exist at the time. At the time, it was just one-to-one.

25 JUDGE BELISLE: So it's Patent Owner's view that

1 they're -- the inventor of the challenged patent invented the one-to-
2 many socket architecture?
3 MR. COCHRAN: Invented a version of it, yes.
4 JUDGE BELISLE: Okay. Let me just follow up on that.
5 What do you mean by a version of it?
6 MR. COCHRAN: Well, the version of it was developed
7 by the chief technology officer that's at PANDA. And it was based
8 on -- before the patented inventions, the one-to-one was an
9 authenticated connection that allowed the communication to go
10 back and forth. What he was able to do and was surprised that it
11 was able to work was that he was able to create a socket
12 connection that was unauthenticated that was able to go to one-to-
13 many.
14 And so with this and the video coming through the
15 separate channel, they were able to do the event information and
16 match that up, synchronize that up with any broadcast or video that
17 was ongoing at the same time. So if you were watching CBS, you
18 were getting the event information. If you were watching NBC, it
19 was the exact same event information coming to the two different
20 locations. Yup. And we're synced up with the broadcasts.
21 JUDGE BELISLE: Okay.
22 MR. COCHRAN: Okay. So I'd like to also quickly
23 rebut one of the things the Petitioner just said about online gaming
24 information and made an argument that we had made inconsistent
25 positions or made inconsistent arguments at claim construction.

1 And that's just not accurate. We always argued for the plain and
2 order and meaning of online gaming information. And in our
3 papers here in the IPR proceedings, we have always made the
4 argument that online gaming information is a subset of the genus
5 event information.
6 And in the District Court, what defendants did -- or what
7 Petitioner did in the District Court was say that online gaming
8 information should be limited to video games. And we disputed
9 that because we think that it is broader than just video games
10 because online gaming information could also include something
11 like sports betting. So there's no inconsistent position that we've
12 taken here. In fact, I think it's the Petitioners that took the
13 inconsistent position.
14 So if I may, I want to stick actually with Petitioner's
15 demonstratives and make specific points about them before I go
16 into my prepared comments. If I could take you, please, to Slide
17 18 of Petitioner's demonstratives. This is a slide that has Dr.
18 Rubin on it. And this is something that Petitioner cited as its
19 support of Spivey's use of the word "may" and that you would
20 have to ask Spivey was somehow relevant to treating "may" as
21 Petitioner does.
22 But I would also like to point out that Rubin deposition
23 transcript at page 62, 8 to 13, is where Dr. Rubin testifies that as
24 we put in our papers, when Spivey says "may," he doesn't always
25 mean "may." And I wanted to get that into the record.

1 So if I could take you, please, to Slide 17 of Petitioner's
2 demonstratives. This one is titled Spivey Discloses an MQSD
3 Client Connection. And Petitioner used paragraph 46 to argue that
4 the subscribers in this situation are the end user client devices.
5 We, of course, dispute that. In this particular situation, the
6 subscribers would be the LDAS or LDAS as they called it, as I can
7 go into in more detail. And Spivey, the only component that it
8 teaches as subscribing to topic queues is the LDAS, the LDAS.
9 And in fact, paragraph 46 even mentions the live data access server
10 130.
11 If I may take you, please, to Slide 24 of Petitioner's
12 demonstratives. In this slide, Petitioner was discussing Spivey's
13 what would resemble a URL. And referring to paragraph 66, the
14 "gamecenter.nfl.ravenssteelers," as what may resemble a URL. I
15 would like to counter that by first going to paragraph 82 at the
16 bottom of this slide and point out that this paragraph is discussing
17 the user interface for the LDAS. And it's talking about addressing
18 the LDAS with something that resembles a URL. It is not
19 discussing Spivey's topic queues.
20 Then in paragraph 66, it is discussing Spivey's topic
21 queues and what they pointed to there is just simply not a URL. If
22 I may please take you to Slide 45 of Petitioner's demonstratives.
23 And this is the slide of Petitioner's theory of obviousness involving
24 the web server of the '218 Patent. And I think they refer to it as
25 Dr. Wicker's illustration of their -- of the combination.

1 And I would just like to point out the arrows that are
2 going between Spivey's MQSD to the web server -- or what they
3 call the web server to the user equipment and also lines -- the
4 green lines 152-1 and 152-n, which do not exist that also are going
5 from the MQSD to the user equipment. And I think this highlights
6 the incompatibility that we've argued in our papers because it is
7 -- Petitioner is essentially alleging that all of these are
8 communicating with each other and it's all cumulative, it's
9 duplicate. There's no sense of whether this is a relay web server or
10 whether it's an orchestrator web server. They're just all
11 communicating with each other and that's just not how these
12 systems operate.
13 So as Petitioners did this morning, I'll be addressing all
14 six petitions together and I will specify if certain arguments are
15 made with reference to a particular patent. The focus is on seven
16 core topics that run across the grounds and challenged claims.
17 One being Spivey's lack of the claimed event socket; the
18 incompatibility and hindsight nature of the Ellis-Spivey
19 combination; Herzog's strict latency requirement, which Petitioner
20 never relaxes in its arguments; the inoperability in hindsight nature
21 of the three-way Ellis, Spivy, and Herzog combination; and the
22 absence of any motivation to combine the web server limitations of
23 the '218 Patent, which require an orchestrator-type server, not a
24 -- the prior art's relay type servers; and Herzog's failure to teach
25 the required online gaming information limitations expressly or

1 inherently, which defeats Petitioner's anticipation argument.
2 There are faults that pervade Petitioner's theories. They
3 are not curable on reply. And they are laid out in our papers and
4 demonstratives. But before turning to the substance, a quick
5 thematic point for the record, the claimed architecture is a
6 technologically improved one-to-many socket architecture that
7 delivers real time actionable event data synchronized with live
8 video. It solves latency and synchronization problems that
9 conventional systems could not solve without different trade-offs
10 and infrastructure choices.
11 JUDGE BELISLE: Counsel, this is Judge Belisle. I just
12 want to slow this down a bit. Do you agree that prior to this
13 challenged patent -- the invention in the challenged patent that it
14 was known to use two communication channels, one to send video,
15 one to send information about that video?
16 MR. COCHRAN: So I think, yes. Before the patent
17 inventions, I think there were different channels that was sending
18 data and different channels that could send video.
19 JUDGE BELISLE: In the sporting context -- sporting
20 event context.
21 MR. COCHRAN: In the sporting context. But the
22 overall architecture of the claims involves more than just two
23 channels sending data and one channel sending video.
24 JUDGE BELISLE: Okay. So I have one channel
25 sending the video feed of my sporting event. I have another

1 channel sending information about that sporting event. The
2 challenged patent, it strikes me that it's addressing the event
3 information communication channel; is that correct?
4 MR. COCHRAN: Yes.
5 JUDGE BELISLE: And what the challenged patent is
6 directed at is seeing how that information was previously being
7 sent in that communication channel and saying, I'm going to do it
8 using a one-to-many socket technique.
9 MR. COCHRAN: I think that's --
10 JUDGE BELISLE: Is that correct?
11 MR. COCHRAN: -- an okay paraphrase of the patented
12 inventions.
13 JUDGE BELISLE: Okay. Well, I mean I understand
14 there's a whole claim.
15 MR. COCHRAN: There's a lot more of the claim than
16 that.
17 JUDGE BELISLE: Yes. Well -- and that's good.
18 Because now, my question is, once I apply that one-to-many
19 socket architecture to the feed, what is beyond that -- the
20 invention?
21 MR. COCHRAN: Well, I think the -- part of the
22 invention is the synchronization and the latency improvements
23 through that one-to-many socket architecture.
24 JUDGE BELISLE: So previously there was no
25 synchronization of -- attempted synchronization of the feed to the

1 information?

2 MR. COCHRAN: I would say it's a little bit more

3 nuanced and that the patented inventions -- before the patented

4 inventions, the -- synchronizing a single channel of event

5 information with multiple channels of different video was -- did

6 not exist. I think the patented inventions found the way to sync up

7 any number of scalable video streams with a single point of entry

8 for event information that could be used across those video

9 streams. That did not exist before.

10 JUDGE BELISLE: So for example, in the '218 Patent,

11 Claim 1 -- I'll give you a moment to get there. But my question is

12 going to be, what limitations are being directed to the

13 synchronization that you're talking about?

14 MR. COCHRAN: Sure, one second. Looks like this

15 claim could be broader than that, Your Honor, I would agree with

16 that.

17 JUDGE BELISLE: The Claim 1 of the '218 Patent

18 doesn't at least explicitly require synchronization between the two

19 channels.

20 MR. COCHRAN: Yeah. But it does require both the

21 media channel and the event information channel, which includes

22 the online gaming channel. And I would say that the goals of the

23 invention are that synchronization, the reduced latency, and the

24 overall one-to-many sockets server so that -- I would say that the

25 claim should encompass what the goals of the invention are going

1 for.

2 JUDGE BELISLE: What claim limitation requires that?

3 MR. COCHRAN: Well, it's the -- it includes both the
4 transmitted sum of the first event information to at least the first
5 viewer client device. That's in what I have here is Element 1.2.2
6 and a later element, a first Internet address of the first media
7 source to establish the first video Internet communication channel
8 between the first media source and the first viewer client device to
9 carry the first digital content, which would be video related to the
10 first sporting event. I would say it's matching up the event
11 information and the video to the first client device.

12 JUDGE BELISLE: So we previously said that it was
13 already known and in use to use two communication channels, one
14 to send video, one to send information. So again, beyond using the
15 one-to-many socket communication technique, what in Claim 1 of
16 the '218 Patent is -- well beyond that --

17 MR. COCHRAN: I would point to the online gaming
18 information limitation, which is a subset of the event information.
19 And I would say that Petitioners in their petition have not been
20 able to show that that was taught in the prior art.

21 JUDGE BELISLE: That online gaming information was
22 not taught?

23 MR. COCHRAN: As part of the event information,
24 yeah. They did not show that in their petition.

25 JUDGE BELISLE: Okay.

1 MR. COCHRAN: We'll go to Slide 12 of Patent Owner's
2 demonstratives, please. As Petitioner did, I also be jumping
3 around a bit, so I hope that's okay. I'll let you know where I'm
4 going.
5 So Spivey lacks the claimed event socket is fatal across
6 all six of Petitioners IPRs. It is the one argument that pervades all
7 of their combinations because they only pointed to Spivey's topic
8 queues as being the claimed event sockets. So if it does not teach
9 the claimed event sockets, all of those grounds must fail across the
10 IPRs.
11 Spivey makes the LDS the core required layer of its
12 architecture as the only component that mediates topic queue
13 subscriptions, end user authentication, and maintaining
14 connections with client devices. It is not an optional module that
15 can be lifted out. Deleting LDAS guts Spivey's design, disrupts
16 the data flow it describes, and erases the very performance
17 characteristic Spivey tout (PHONETIC).
18 What remains after you exclude the LDAS is not Spivey.
19 Petitioner then backfills that hole with our claim language,
20 replacing Spivey's actual design with a hindsight reconstruction.
21 This is why every ground fails across the proceedings.
22 The record show -- can we go to Slide 13, please? Go to
23 Slide 13, please. So this is Petitioner's proposal for the majority of
24 its grounds and its combinations. And as you can see that this was
25 in its petition on page 19. And for the record, I'll say that the cites

1 -- and I have this on my slides. But the cites that I put here are to
2 the 1305 IPR unless I have specifically stated otherwise.
3 And petition at page 19, this is where Petitioner makes its
4 bed, so to speak. It would remove Ellis' supplemental content
5 source, which is the source of data in Ellis, and it would replace it
6 with Spivey's live data server device and Spivey's message queue
7 server device. It would also remove the Spivey LDSD and
8 Petitioner has never disputed the fact that its combination removes
9 that LDAS.
10 Go to Slide 14, please. So the record shows that
11 Petitioner never identifies in Spivey an event socket structure
12 meeting the claims as construed and argued, a unique addressable
13 communication endpoint. If you go to Slide 15, please. Petitioner
14 instead points to Spivey's topic queues at this -- at Spivey's
15 MQSD. But topic queues and their topic labels are not event
16 sockets under the claim construction.
17 The topic label is merely a shared identifier for sorting an
18 organization, not a uniquely addressable endpoint capable of being
19 addressed to a specific client or connection. Topic labels cannot
20 be addressed, nor do they by themselves constitute communication
21 endpoints.
22 You can go to Slide --
23 JUDGE BELISLE: Counsel?
24 MR. COCHRAN: Yeah.
25 JUDGE BELISLE: Judge Belisle. Would you say that a

1 URL constitutes a addressable communication endpoint?
2 MR. COCHRAN: So I would agree with Dr. Rubin that
3 a URL would be sufficient for something like that. But I would
4 also say the Spivey does not teach that the topic queues are URLs.
5 They are not addressable, and so they don't teach that they are
6 URLs. Where Spivey does mention a URL, as I said earlier, is in
7 connection with the user interface of the LDAS that is used to
8 address the LDAS that is then -- communicates with the MQSD
9 where those topic labels are stored.
10 Can we go to Slide 16, please? So even taking
11 Petitioner's view at its highest -- and that is at its highest -- that it's
12 not just pointing to the topic queues as event sockets but instead is
13 pointing to the whole MQSD as the socket -- event socket. Spivey
14 places MQSD behind a firewall, a protected network boundary,
15 and does not expose MQSD directly to end users. It is the only
16 component discussed in Spivey that says it is behind a firewall.
17 Go to Slide 18, please. So without the LDAS, the
18 required interface -- as the required interface, nothing in Spivey
19 connects to the end users at all. Removing the LDAS to force fit
20 Spivey into an event socket paradigm eliminates a required layer
21 of Spivey, disrupts the defined data path.
22 If you go to Slide 19, please. It erases the alleged latency
23 benefit and confirms the hindsight rewrite. This single defect
24 dooms all grounds premised on Spivey.
25 JUDGE BELISLE: Counsel, given the significance of

1 this argument, can you explain some more? What is Patent
2 Owner's view as to what the topic -- what do you call them, topic
3 queues? Topic queue, what the topic queue is for in this
4 reference?
5 MR. COCHRAN: Yeah. So topic queue in Spivey
6 teaches is specifically -- I could find the citation for it if you want
7 it. Topic queues consist of two things, a topic label and data,
8 essentially. The topic label is used by Spivey's MQSD to then sort
9 the data into different queues of hierarchical nature. So if it's a
10 topic related to the NFL generally, it would sort -- the topic label
11 would be used to sort that information into the NFL data queue.
12 If it is very specific to a stat or a game or a player, that
13 would be in that topic label. And it could sort that information to
14 that particular queue.
15 But there is nothing about the topic label or the
16 underlying data that can be addressed by any other server or client
17 device to get that directly. It must have something else there.
18 JUDGE BELISLE: So in Spivey, I have these topic
19 queues, or I'll just call them buckets of information. How does
20 Spivey get that bucket of information to the user now?
21 MR. COCHRAN: So Spivey uses the LDAS. So the
22 user -- the end user interacts with the LDAS. And it is the only
23 component, the LDAS, that Spivey teaches as authenticating end
24 users, as subscribing to the topic queues, and as making the
25 connections with the end users. So when Spivey -- when our user

1 requests the information, it's the LDAS that then subscribes to the
2 relevant topic at the MQSD to then retrieve that information and
3 pass it along to the end user.
4 And that is what we would refer to as a relay server
5 because it is relaying the information. It is sitting between the
6 topic queues at the MQSD, getting the information and relaying it
7 on to the end user. That's how the end user would get the label.
8 JUDGE BELISLE: So in Patent Owner's view, the user
9 in Spivey does not communicate directly with these topic queues.
10 MR. COCHRAN: That is exactly right.
11 JUDGE BELISLE: So instead, the user device
12 communicates with the LDAS as to what it wants. And at that
13 point, the LDAS reaches out to get that information and then sends
14 it to the user; is that correct?
15 MR. COCHRAN: That seems accurate, yes, Your
16 Honor. And I will also add, again, that Petitioner removed the
17 LDAS. And they have never and cannot say now that they are
18 putting it back in. They removed it. And so there is no component
19 in their proposed combination that actually communicates with
20 -- directly with the end users.
21 JUDGE BELISLE: And what is Patent Owner's view as
22 to how does the LDAS communicate with the MQS to get that
23 bucket of information?
24 MR. COCHRAN: I'm not sure, to be quite honest, Your
25 Honor. Some connection between the LDAS and then the MQSD

1 could be over the Internet. But I am not entirely sure. But I will
2 add to that, however -- and this is a claim construction issue here
3 that involves event socket. The District Court has determined that
4 event -- the event part of event socket is that the socket is
5 dedicated to a single event. So even if -- and if I think I'm
6 following your logic here that it just passes through the LDAS and
7 perhaps there's a socket connection between the LDAS and
8 MQSD.
9 The MQSD still cannot meet the event socket limitation
10 under the District Court's claim construction because it is just, as
11 you put it, a bucket of this information and it is not dedicated to a
12 single event. And that claim construction came out, I think, at the
13 end of August. So I think the papers had already been written at
14 that point in time.
15 JUDGE BELISLE: Okay.
16 MR. COCHRAN: So if we can go to Slide 20, please.
17 Slide 20. So Petitioner next contends that Ellis plus Spivey
18 renders the claims obvious. But the petition stitches Ellis and
19 Spivey together only by stripping out the very parts that deliver
20 data to users, Spivey's LDAS, remove them and there is no path
21 for the data to reach users. The combination simply does not
22 work. That is not a routine tweak, it is a hindsight rebuild.
23 Petitioner's reply papers never fix this basic inoperability.
24 Instead, they fall back on generalities about known Internet
25 protocols and multi-channel delivery as if any two multi-channel

1 systems could be grafted together without upsetting the very
2 timing trade-offs each reference shows. The record shows the
3 contrary. Ellis' two-track concept is not the same as Spivey's
4 LDAS mediated queuing and their control paths and timing
5 expectations conflict.
6 If we can go to Slide 21, please. Turning now to Herzog.
7 Herzog imposes a strict latency structure. The data lead lag budget
8 and timing discipline are not optional features. This was discussed
9 earlier with Petitioner. And I believe a question asked that -- does
10 -- I think Herzog reduced the video latency. And the answer to
11 that is very much no. It never reduces the video latency. It is built
12 into the system, and it is used by Herzog to match up the
13 timestamps of the data and the video. It is a built -- it is a -- it is
14 not a bug. It's a feature, I think, as we said in our papers.
15 Petitioner's position is only to reduce the latency of the
16 data, not to reduce the latency of the video. So if the video
17 remains with this long latency period and the data is getting there
18 faster and faster and faster than it is just sitting there and
19 accumulating, waiting for the video to arrive so that it can be
20 timestamped and then sent on to the end user device.
21 And as Dr. Rubin points out in his declaration, that is just
22 not workable and it does not meet the motivation that one would
23 use to combine these references because you would need -- as the
24 data accumulates, you would need additional components,
25 additional servers, additional databases to store all of this

1 accumulated data before it's timestamped. And that would reduce
2 the latency. That's the extra hops that were discussed. They
3 would have to be stored and processed and then moved on once the
4 video actually arrives.
5 So Petitioner's theory does not improve the overall
6 system at all. Instead, it creates additional problems that Petitioner
7 never fails to grapple with. The combined system creates
8 cumulative delays that defeats Herzog's premise. Petitioner's reply
9 says reducing data distribution latency would improve capabilities
10 but never provides a reasoned path grounded in the art to reconcile
11 Herzog's rigid timing budgets with the added overhead and
12 decoupled messaging Petitioner imports from Ellis and Spivey.
13 This is not an articulated rationale; it is a wish.
14 Slide 22, please.
15 JUDGE BELISLE: Counsel, this is Judge Belisle. So
16 just to make sure I have my head around your argument here, with
17 respect to Herzog, it sounds like what Patent Owner is saying is
18 the video feed in Herzog has -- I'll call it a large latency. And
19 Herzog wants to get the event information with respect to that
20 feed. And so it uses timestamps to reach out and get that
21 information.
22 But Petitioner's argument is that, well, I want to reduce
23 the latency in the feed of the information. So is it Patent Owner's
24 view that the skilled artisan would have no interest in trying to
25 reduce or speed up the delivery of the information feed when the

1 video feed is still lagging behind?
2 MR. COCHRAN: I would agree with that, Your Honor.
3 There would be no reason to reduce the data feed if the video feed
4 is still lagging so far behind. In fact, it would probably create
5 more problems than it would solve. And that is Petitioner's
6 articulated rationale for combining Herzog with these references is
7 that it would reduce the latency of the data. A POSA would not do
8 that.
9 So I also wanted to point out that Dr. Wicker, Petitioner's
10 expert, agrees with this too, that the latency is built into Herzog's
11 structure and architecture and that it's not changed by Petitioner.
12 And the cites are here on the Slide, that he agrees that it's not a
13 bug, it is a feature, and that is a required component of Herzog for
14 the timestamping synchronization. This is Slide 23.
15 Slide 24.
16 JUDGE JURGOVAN: Counsel, let's say that the video
17 feed is faster than the meta-data. Wouldn't it be advantageous in
18 that circumstance to reduce the latency of the meta-data?
19 MR. COCHRAN: When the video feed latency is faster
20 than the meta-data, am I understanding that correctly, Your
21 Honor?
22 JUDGE JURGOVAN: Correct.
23 MR. COCHRAN: I think in that situation, it might be
24 advantageous to reduce the latency of the meta-data to meet up
25 with the video. But that's not what Herzog teaches at all.

1 JUDGE JURGOVAN: Okay. Thank you.
2 MR. COCHRAN: So another point that I wanted to
3 make -- one second -- on the motivation to combine is Petitioner's
4 use of the case In re Keller to say that the -- we are trying to bodily
5 incorporate Spivey and the other components into the combination
6 and that's just improper under In re Keller. But that's not what
7 we're trying to do at all.
8 And to counter that point, we have cited In re Hedges,
9 which I think is a more accurate depiction of what the obviousness
10 inquiry is. And In re Hedges, it says that it -- the Court
11 admonishes against picking and choosing from references to the
12 exclusion of other parts necessary to the full appreciation of what
13 such reference fairly suggests.
14 And in this situation, by removing the LDAS, Spivey
15 fairly suggests that that is a required component of Spivey's
16 architecture. We're not discussing a bodily incorporation. We're
17 discussing how a POSA would read Spivey's reference as its whole
18 -- as it must be taken as a whole. The record is devoid of a
19 teaching or market signal to perform for the Petitioner's particular
20 rearrangement, much less a reasonable expectation of success
21 given the timing in (INDISCERNIBLE).
22 I can turn now to the web server limitations of the '218
23 Patent. The web server limitations matter. The '218 Patent depicts
24 and describes a web server that orchestrates connections, client
25 devices obtaining stream access, and event information via

1 addresses instructions from the web server consistent with the
2 claim text requiring transmission of addresses that cause client
3 devices to establish the two channels.
4 Petitioner's prior art web servers are relay-type web
5 servers. As I just demonstrated with the LDAS, it is sitting in
6 between the data flow. And it is relaying information from the
7 MQSD to the end user client device. That is not an orchestrator-
8 type web server which would have the MQSD and the end user
9 client devices speaking to each other. That does not happen in
10 Spivey.
11 Petitioner's prior art web servers forward or proxy
12 content without orchestrating client addressing and topic routing as
13 the claims require. Dr. Rubin underscored this at his deposition.
14 A relay receives and forwards all content, whereas an orchestrator
15 points the client to the source and then steps out of the way.
16 Petitioner's references show the former, not the latter. Petitioner's
17 --
18 JUDGE BELISLE: Counsel, this is Judge Belisle. In the
19 context of obviousness and when we're dealing with a skilled
20 artisan here means good education and probably computer science,
21 years of experience. If that person is aware of knowing how to tell
22 one server to communicate with another server and knows the
23 destinations and the endpoints, why is it of any importance to that
24 skilled artisan whether they set it up as a relay or set it up as just
25 telling them where to go?

1 MR. COCHRAN: Sure. So the first thing I'll say is
2 that's not Petitioner's position. It made its position known with the
3 diagrams that it put into its petition that it removes that LDAS.
4 The orchestrator-type web servers would also help reduce the
5 overall latency of the system because it's just getting out of the
6 way. If the server were to be in the middle in relay information, it
7 would increase the latency burden.
8 It's as if, Judge Belisle, I, you know, was talking with
9 you and you wanted to say something to Judge Dang, you should
10 just talk to each other as -- if I could orchestrate you guys talking
11 to each other, it would be a lot quicker. But if I have to take the
12 information and then relay it to Judge Dang, there's a delay in there
13 and there's a difference there. That's the difference.
14 JUDGE BELISLE: But the skilled artisan would know
15 that, correct?
16 MR. COCHRAN: They quite possibly know that, but
17 Petitioner didn't make that argument in their petition. In fact,
18 Petitioner never identifies in the art a server that plays the claimed
19 orchestrator role. This gap is straightforward. Petitioner papers
20 over the absence of any web server in Ellis-Spivey by addressing
21 that a POSA would simply add one because web servers were
22 well-known but offers no specific supported path to rearchitect
23 relay references and to orchestrator design as the claims require.
24 An orchestrator must coordinate connections, transmit addresses,
25 instructions, and cause client devices to establish two channels,

1 functions not disclosed or suggested by Petitioners in the relay
2 servers.
3 In fact, the Board reached the same conclusion in the
4 related IPRs against the '088 Patent as one of the four patents
5 owned by Patent Owner that also claims the web server. And in
6 that -- in those IPRs, the Board denied institution on the merits of
7 because Petitioner failed to show that bolting on a web server
8 would perform the claimed orchestrator functions and because
9 adding that separate server would undercut Petitioner's own
10 reduced latency rationale by increasing hops, handshakes, and
11 complexity. This failure to identify the claim to orchestrator
12 functionality in the art or to explain how to get there dooms
13 Petitioner's grounds on the '218 Patient.
14 Finally, I'll get to the online gaming information. Herzog
15 does not expressly or inherently teach the online gaming
16 information limitations of the '218 Patent. And as I'll remind the
17 Board that Petitioner did allege that Herzog alone anticipates the
18 claims of the '218 Patent that recite the online gaming information.
19 So that is an anticipation ground, not an obviousness ground. And
20 their position is that the online gaming information is there either
21 expressly or inherently; it is not. And so that dooms their
22 anticipation argument.
23 The Petitioner gestures at data feeds and auxiliary event
24 information. But that is not online gaming information, nor does
25 Petitioner show inevitability under an inherency theory. Nothing

1 in Herzog makes online gaming information an inescapable feat.
2 When --
3 JUDGE BELISLE: Counsel, Judge Belisle again. Is a
4 score in a football game considered online gaming information if it
5 was online?
6 MR. COCHRAN: So I would refer to that as event
7 information, which is a broader genus of information than online
8 gaming information, which is a subset. The online gaming
9 information, we refer to things as like sports betting information,
10 perhaps video game information. But the information about the
11 sport itself, scores, clocks, players, would be among the event
12 information, not the online gaming information.
13 JUDGE BELISLE: Okay. So where in the specification
14 is that distinction made for online gaming information?
15 MR. COCHRAN: So I don't have that cite on me, but
16 the online gaming information -- actually, I do have that, never
17 mind. One second, Your Honor. So the -- it's actually in the
18 claims of the '218 Patent that I'd say the patent makes the
19 distinction between event information and online gaming
20 information. And this is something that we said in our Patent
21 Owner response in the '218 Patent at page 51. Claim 1 of the '218
22 Patent expressly claims the first event information, including
23 online gaming information.
24 Then Claim 21 of the '218 Patent only references online
25 gaming information and does not mention event information. So

1 they're clearly using the two terms, event information and online
2 gaming information, as different. And the online gaming
3 information would be included in the event information. It's a
4 subset of the event information.
5 JUDGE BELISLE: So could they not both be the score
6 of a game?
7 MR. COCHRAN: I would say that the online gaming
8 information is specific to things about online gaming and not just
9 the event information, such as the score.
10 JUDGE BELISLE: When you say online gaming, what
11 do you mean by that?
12 MR. COCHRAN: I think it would include things like
13 sports betting online, the odds, the money lines, the spreads. It
14 would also include information that might relate to video games.
15 As we talked about earlier today and as we argued at claim
16 construction in the District Court, the plain and ordinary meaning
17 of it would include more than just video games. And it would
18 include the sports betting, like odds and things.
19 JUDGE BELISLE: Does online gaming information
20 include anything about an actual, like, real game that's being
21 broadcasted?
22 MR. COCHRAN: I would say no. I would say the
23 online gaming information would be more specific to something
24 about gaming as it would be known but not necessarily specific to
25 the sports event happening.

1 JUDGE JURGOVAN: Counsel, just so you know you're
2 into your rebuttal time at this point exactly.
3 MR. COCHRAN: I appreciate that, Your Honor. I was
4 just thinking the same thing. So I'll reserve the rest of my time and
5 rest for now.
6 JUDGE JURGOVAN: Thank you. We'll hear Petitioner
7 now for rebuttal.
8 MR. BAKER: Thank you, Your Honors. I'm going to
9 address Patent Owner's arguments substantially in the order that
10 these issues were raised. But if you have any (INDISCERNIBLE -
11 TECHNICAL DIFFICULTY). And if we go to the representative
12 claim, that feature is generally not claimed. If you look at Claim 1
13 that we started this morning with, the delivery of the video and the
14 media, the related -- I'm sorry, the related data is to a first viewing
15 device. It doesn't say that is to a first and second viewing device.
16 So there's a lot of emphasis in the briefing on this one-to-
17 many topic. But looking at the claims -- but for some dependent
18 claims, that limitation is not expressly required.
19 JUDGE BELISLE: Counsel, Judge Belisle, do you have
20 any views or response to the statement that the one-to-many socket
21 technique was not known prior to this challenged patents
22 invention?
23 MR. BAKER: We believe Spivey teaches it. If you look
24 at paragraph 46 of Spivey on Slide 17, the last sentence there
25 reflects that the MQS communication component receives request

1 to subscribe to topics in a topic set and may push data from topic
2 queues to the subscribers of the topics. Each topic queue has the
3 ability to push data to multiple subscribers; that's one-to-many. So
4 we're confident that the one-to-many concept is covered by Spivey.
5 Can we go to Slide 35, please?
6 JUDGE BELISLE: And Counsel, is that using the socket
7 technology?
8 MR. BAKER: Yes. It is using the websocket
9 communication for the delivery. And as we've discussed, the topic
10 queues are equivalent to the (INDISCERNIBLE) socket.
11 JUDGE BELISLE: And how is -- the topic queues
12 textual designation, how is that the same as a URL and thus the
13 same as an IP address or a socket?
14 MR. BAKER: It's addressable. It identifies where the
15 data that the client wants to receive can be found. So if you're
16 looking for information on the Ravens-Steelers game, that would
17 be identified by the location of that topic queue, which is
18 addressable, that data would be pushed to the client who is
19 subscribed to that specific topic.
20 JUDGE BELISLE: So I think -- perhaps now I'm
21 starting to see some of the hairs being split. Addressable, it's
22 addressable by what in Spivey?
23 MR. BAKER: The text name -- so we're talking about
24 the specific topic queue.
25 JUDGE BELISLE: Right.

1 MR. BAKER: Can we pull up -- so for example, my
2 topic queue could read "gamecenter.nfl.ravenssteelers." So any
3 data that is sent to that particular topic queue would be pushed to a
4 client who is subscribed to receive data related to
5 "gamecenter.nfl.ravenssteelers."
6 JUDGE BELISLE: So what in the Spivey system
7 communicates with that "gamecenter.nfl.ravenssteeler" address?
8 MR. BAKER: So you're saying what within the MQS?
9 JUDGE BELISLE: Yeah. I'm trying to figure out -- we
10 have a -- what I call the bucket. We have a bucket called
11 "gamecenter.nfl.ravenssteelers." What in Spivey is able to reach
12 out to that bucket and get that information? Sort of who -- what in
13 Spivey knows that is an address that it can contact?
14 MR. BAKER: The MQS -- whatever's hosting the topic
15 queues. And in the embodiment that we are relying upon, which is
16 the Figure 4 operating environment, the MQSD would reach into
17 that bucket and push the data to the client device.
18 JUDGE BELISLE: But can the user do it?
19 MR. BAKER: The user subscribes to a topic queue after
20 that subscription has been registered. When data is received at a
21 topic queue, the MQSD then pushes the data to the client device.
22 JUDGE BELISLE: And the LDAS is thus between the
23 user and the bucket. So the user goes to the LDAS, the LDAS
24 goes to the bucket, and then sends it back?
25 MR. BAKER: So I don't want to conflate that. What we

1 were discussing, the topic queues reside in the MQSD and there's a
2 push directly from the MQSD to the client devices. There is an
3 embodiment, Figure 5, which we do not rely upon. If we can go to
4 Figure 5 of Spivey, if we can pull that up, it's not in our slides.
5 Figure 5 has what's -- it identifies the LDAS, a specific
6 embodiment of the LDAS.
7 I'd like to go to Spivack if we could, Figure 5 -- Spivey, I
8 apologize. So this is operating environment 500 and an LDAS is
9 discussed. This LDAS includes a subscription component 540.
10 The purpose of that particular component is to communicate with
11 an MQSD, which is unavailable directly by a client, the firewall
12 scenario.
13 In that scenario where you have a firewall, the LDAS
14 would have a subscription component. The client device would
15 communicate with the LDAS. The subscription component would
16 know which topics to retrieve for that particular client. And then
17 the push would go from the MQSD to the LDAS to the client. But
18 again, that is a special circumstance when the MQSD is
19 unavailable directly to the client. But the --
20 JUDGE BELISLE: So Petitioner's view is that in
21 Spivey, the MQS is not always behind a firewall.
22 MR. BAKER: Yes, Your Honor, 100 percent. That's a
23 special scenario. If you look at the environment that we rely upon,
24 operating environment 400, there is no subscription component in
25 the MQSD. There's no subscription component because there's no

1 need to -- there's no LDAS, first of all. And without the LDAS,
2 there's no subscription component necessary to be the intermediary
3 between the MQSD and the client. In this embodiment, there's the
4 ability of the MQSD to communicate directly with the client.
5 JUDGE BELISLE: And so it looks like just between
6 operating environment 400 and 500, there's just a keyword to not
7 lose sight of. In 500, it's a live data access server. In 400, it's just
8 a live data server.
9 MR. BAKER: Do not want to get those two confused.
10 Those are distinct components. And they are similarly named, so
11 it can be confusing at times. The LDSD, we equate to be the claim
12 control server, not to be confused with the LDAS, which is
13 optional as we've discussed.
14 JUDGE BELISLE: In Petitioner's cases around
15 operating environment 400, the combination of the MQS and the
16 LDS, those two servers are providing their functions?
17 MR. BAKER: Yes, Your Honor. Can we turn to Slide
18 31 if you can get back in the presentation? 35, I'm sorry. Yes,
19 Your Honor. There's been some discussion about synchronization.
20 There are two types of synchronization concepts, I think, that are
21 discussed, one is across viewing devices. That is the requirement
22 for the viewing -- two viewing devices, a first and a second
23 viewing device, to receive the feeds, the video, and the meta-data
24 simultaneous with each other.
25 This may be useful in, like, a betting scenario. But that's

1 not required in the claims. The exemplary claim we discussed,
2 there's no synchronization requirement. That's just a feature that's
3 discussed.
4 Go to Slide 36. There are some claims that do require
5 this, for example, Claim 4 in the '218 Patent. But that is addressed
6 by a specific combination. We don't want to, though,
7 impermissibly read the synchronization requirement to all the
8 claims.
9 Can we go to figure -- a slide that shows Figure 22, the
10 distributed environment? There was an issue raised by Patent
11 Owner regarding where the URL points. And the argument was,
12 well, in the example you guys mentioned, the URL is to the
13 LDAS, which would be correct in the scenario where the MQSD is
14 between -- is behind the firewall, then the URL would be to the
15 LDAS. That LDAS would have a subscription component and
16 would communicate with the MQSD behind a firewall.
17 But it is 100 percent understood that if the topic queues
18 reside on the MQSD, the URL would be to the MQSD. That
19 would be the address that the client would use when directly
20 communicating with Spivey system.
21 JUDGE JURGOVAN: Counsel, you have less than two
22 minutes.
23 MR. BAKER: Thank you, Your Honor.
24 JUDGE BELISLE: And on that, I'd like to hear about
25 this online gaming information because perhaps I misunderstood.

1 But in my exchange with Patent Owner, I was understanding the
2 argument to being in the patent, for example, would not cover a
3 scenario where you're streaming the Super Bowl and providing a
4 feed of the score as your information feed because that would not
5 be an online gaming information scenario. Is that your
6 understanding of these claims?
7 MR. BAKER: It's not, Your Honor. In a sports related
8 context -- and to give additional context, in Las Vegas, it's called
9 the gaming industry. And that includes sports gambling, table
10 gambling -- it's a pretty broad term. So in the context of sports-
11 related data -- and you're talking about online gaming industry.
12 Online gaming information, any information related to the game,
13 the ongoing game that's being streamed would constitute online
14 gaming information, so for example, the score, the weather, how
15 fast the engine is revving in a racing event.
16 Your Honor, do you have additional questions on online
17 gaming?
18 JUDGE BELISLE: I see it. I do, one, and that is the
19 conversation that we had with the Patent Owner's counsel caused
20 me to do a quick search in the challenged patent for online gaming.
21 And I see, for example, that in column 4 of the challenged patent
22 at around lines 31, it speaks in terms of game-related activities and
23 then says for example, online gaming, board games, chess
24 matches, and role-playing games. That's not a direct quote.
25 I'm wondering, the use of online gaming there being

1 distinguished from board games, chess matches, role-playing
2 games in the context of game-related activities makes me come
3 back and ask, again, online gaming information, is that something
4 different than real games that are being broadcasted?
5 MR. BAKER: So by real games, you are distinguishing
6 games that would be played between multiple users online as
7 compared with your --
8 JUDGE BELISLE: Right. Perhaps just a actual football
9 game --
10 MR. BAKER: Right.
11 JUDGE BELISLE: -- as opposed to the real humans
12 playing a game and that feed of the video is being, you know,
13 streamed and scores and stats are being communicated also, is that
14 information that's related to a real game considered online gaming
15 information?
16 MR. BAKER: I believe the term is broad and it would
17 encompass both. So in that gaming scenario, the current score of
18 the game that's being played online and that has related data being
19 transmitted to the end user, that would be online gaming. If the
20 video content is to a racing event, then online gaming information
21 would be the weather, the speed of the cars, the engine condition,
22 things of that nature.
23 JUDGE BELISLE: So we should just look at online
24 simply being if it's coming over the Internet, it's online; and if it's
25 gaming, it's relating to the game.

1 MR. BAKER: Yes, Your Honor.
2 JUDGE BELISLE: So there's our online gaming
3 information.
4 MR. BAKER: Yes, Your Honor.
5 JUDGE BELISLE: Okay.
6 MR. BAKER: Your Honors, unless you have any
7 additional questions, we believe our time is up. Thank you.
8 JUDGE JURGOVAN: Thank you, Counsel. We'll go to
9 Patent Owner now for surrebuttal, please.
10 MR. COCHRAN: Just a few points, Your Honors. One
11 thing I will point out, the very last thing that was discussed about
12 the difference between online gaming combination of the two, I
13 don't believe that Petitioner ever made a claim construction
14 argument about something like that. It's not in the papers.
15 Petitioner pointed to Figure 5 of Spivey.
16 But Figure 5 of Spivey is not the entire system of Spivey.
17 And you must look at the reference as a whole of what it would
18 suggest -- fairly suggest to a person of ordinary skill in the art.
19 And just pointing to Figure 5 and saying that in isolation means
20 something the Petitioner says it means is not what would fairly
21 suggest to a POSA, they would look at other things.
22 And if you look at the reference as a whole, the MQSD,
23 again -- I think I've said this before, but the MQSD is the only
24 component that Spivey says is not directly accessible by end users
25 and is the only component that Spivey says is behind a firewall.

1 So the fact that they are relying on that, it's -- the language is
2 optional that there are certain embodiments that Spivey must
3 disclose then that says the firewall is not there is simply not what
4 Spivey says. It's not what would be fairly suggested to a POSA.
5 JUDGE BELISLE: Well, Counsel, so what is Patent
6 Owner's view on the difference between the operating environment
7 400 and the operating environment 500 in Spivey?
8 MR. COCHRAN: So again -- oh, sorry.
9 JUDGE BELISLE: I was going to say one of which, the
10 500 uses the access server, the live data access server. But the
11 operating environment 400 does not indicate that it has the access
12 server, just a live data server.
13 MR. COCHRAN: So again, the -- it's not the entire
14 system, it's a single figure within the patent. You must look to the
15 whole disclosure to see what would be fairly suggested. I'll also
16 say that there is -- like, Petitioner is very right that live data
17 -- access server in live data -- what is it?
18 JUDGE BELISLE: The server.
19 MR. COCHRAN: Yeah, server. They are two different
20 things. But the live data -- not the live data access server, the live
21 data server is sitting -- always sitting behind the MQSD. It's never
22 making any sort of connections to end user devices or anything
23 else besides the MQSD. It's actually a source of data that then
24 pushes into the MQSD for sorting among the MQSD's topic labels.
25 JUDGE BELISLE: So is it Patent Owner's view that this

1 operating environment 400 would still have an additional live data
2 access server that has to be used within this system?
3 MR. COCHRAN: Exactly, yes. Because the live data
4 device is not -- does not supplant the LDAS. It is actually the
5 source of the data -- or part of the source of the data that is then put
6 into the MQSD. Spivey fairly suggests -- the arrow in Figure 4,
7 Your Honor, does show that that the LDS is going to the MQSD.
8 One last point, Your Honor, and I have to take it back to
9 the term event socket and the District Court's construction of event
10 socket as a socket. And I don't think there's any dispute of what
11 we mean by socket, a uniquely addressable communication
12 endpoint. Event socket has to be dedicated to a single event.
13 So even if Petitioner wins on its pointing to the MQSD or
14 the -- as the socket server or the topic queues as the socket server,
15 it does not meet that District Court's construction because as we
16 have said here today, it is a bucket of information that you reach in
17 and grab it and pass it along. It is not dedicated to a single event
18 under that court's claim construction.
19 And I would also point out that claim construction should
20 be applied equally here, the -- at least under the recent precedential
21 opinion of this Board. Revvo Technologies v. Cerebrum Sensor
22 Technologies, IPR2025-00632, Paper Number 20, that was issued
23 on November 3rd, 2025, that stands for the proposition that similar
24 claim constructions in the District Court should be also applied in
25 the IPRs, absent any specific explanation of why something should

1 be different. And we think that the claim construction for the
2 District Court should apply here as well.
3 JUDGE BELISLE: Counsel, can you direct us to that
4 District Court construction? Where is that?
5 MR. COCHRAN: Sure. So it's in the District Court, so
6 this was the SportsCastr v. Sportradar. It's a consolidated case, but
7 it's a SportsCastr v. Sportradar and SportsCastr v. Genius. The
8 docket number --
9 JUDGE BELISLE: Well, let me stop you there. Is it in
10 our record currently?
11 MR. COCHRAN: I have to look that up, Your Honor.
12 I'm not entirely sure. But it was made -- it was -- the district judge
13 made that decision on August 25th, 2025, to say that event socket
14 should be dedicated to a single event. I don't think anyone has
15 argued anything different. So Exhibit 1069 is the District Court's
16 claim construction order.
17 JUDGE BELISLE: Okay. One moment.
18 MR. COCHRAN: And I think I'm on -- I think all the
19 exhibits are the same between the IPRs for the most part, so it
20 shouldn't matter which one you go to.
21 JUDGE BELISLE: And what was the exhibit number
22 again?
23 MR. COCHRAN: 1069.
24 JUDGE BELISLE: Right. So Counsel, I'm looking at
25 Exhibit 1069 in particular, but it's marked as page 11 of 28, and it

1 has a disputed terms listing for event socket. It has PANDA's
2 construction and defendant's construction. It appears that
3 PANDA's construction is, quote, "A socket through which event
4 information can be sent in a synchronized manner to multiple
5 client devices." And defendant's construction is a socket dedicated
6 to a particular event. I guess if I go to the end now --
7 MR. COCHRAN: Right at the top of page 15, Your
8 Honor. And I think I've been misspeaking. I said single event, but
9 this is particular event is what the Court decided to adopt.
10 JUDGE BELISLE: And the Court adopts defendant's
11 construction, a socket dedicated to a particular event. And Patent
12 Owner's understanding of that means a single event.
13 MR. COCHRAN: Well, at the very least, a particular
14 event doesn't encompass multiple events.
15 JUDGE BELISLE: And what tells us that the topic
16 queues in Spivey aren't particular events as opposed to somehow
17 the bucket has lots of different events information?
18 MR. COCHRAN: Sure. One second, Your Honor, I will
19 get to that question. I also wanted to point out that on page, I
20 think, 26 of 28, the conclusion of the Court's opinion, term 13,
21 event socket -- I'll wait until you get there.
22 JUDGE BELISLE: Oh, I see it.
23 MR. COCHRAN: A socket dedicated to a single event.
24 I guess there's a bit of ambiguity there in the Court's order. But the
25 conclusion here is that it's a single event or at least a particular

1 event, which would not be multiple events. And I apologize, can I
2 get your question again, Your Honor?
3 JUDGE BELISLE: Yeah. The question was what in
4 Spivey suggests that the buckets, as I call them, for these topic
5 queues are not single event information?
6 MR. COCHRAN: So there -- I would -- Spivey's topic
7 queues are hierarchical. So there are topic queues that could just
8 deal with the NFL in general or the NBA in general, or there could
9 be topic queues that go all the way down to be specific about a
10 single event. For example, like the Ravens-Steelers game, all of it
11 sits within the single server and all of it would be obtained via the
12 one connection. So it would not -- that one connection is not
13 dedicated to a single or particular event. It's dedicated the entire
14 bucket of what consists of the MQSD.
15 JUDGE BELISLE: Including the Court's construction of
16 a socket dedicated to a single event that can't be read where the
17 single event is simply like football.
18 MR. COCHRAN: If the single event would be a single
19 game, a single fixture of event.
20 JUDGE BELISLE: I can foresee some difficulties with
21 that particular construction using the word event. Okay. But I
22 understand your position.
23 MR. COCHRAN: Okay. And with that, Your Honor,
24 I'm done.
25 JUDGE JURGOVAN: Okay. I want to thank both

1 parties for their presentations. They're very helpful. We will
2 certainly -- most certainly look closely at your arguments when it
3 comes time to prepare the decisions in this case. Wish you the rest
4 of the day and thank you. We are adjourned.
5 (Whereupon, the above-entitled matter went off the
6 record at 12:17 p.m.)