UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GENIUS SPORTS LTD.,
Petitioner,

v.

SPORTSCASTR INC.
(d/b/a PANDA Interactive),
Patent Owner.

IPR2024-01311

U.S. Patent No. 11,039,218

PATENT OWNER'S SUR-REPLY

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EXHIBIT LIST

Exhibit	Description
EX-2001	Declaration of Aviel Rubin, Ph.D.
EX-2002	*Curriculum vitae* of Aviel Rubin, Ph.D.
EX-2003	Joint Claim Construction Statement, Dkt. 69
EX-2004	Declaration of Dr. Stephen Wicker, September 13, 2024
EX-2005	Yahoo Finance Tanner Simkins, April 20, 2017
EX-2006	NBA.com, Steve Ashburner April 27, 2017 Article
EX-2007	Sportstechie, Robert Roble, April 22, 2017
EX-2008	Sports Tech Tokyo Award; 2019 Yahoo! Sports Tech Awards; Sports Business Awards
EX-2009	Various Media Reports on the Patented Invention
EX-2010	CNBC, December 20, 2018
EX-2011	https://sportscastr.com/about
EX-2012	https://pandainteractive.com/patents
EX-2013	https://sportscastr.com
EX-2014	https://studiopanda.live/
EX-2015	Genius Sports 2-24-18 Email
EX-2016	Genius Sports 5-7-18 Email
EX-2017	’687 Patent Genius Sports Infringement Claim Chart
EX-2018	https://www.opensourceforu.com/2015/03/a-guide-to-using-raw-sockets
EX-2019	https://learn.microsoft.com/en-us/windows/win32/winsock/tcp-ip-raw-sockets-2
EX-2020	Oracle documentation in 2011: Anatomy of the Client/Server Model. https://docs.oracle.com/cd/E13203_01/tuxedo/tux80/atmi/intbas3.htm
EX-2021	Peng, Gang. "CDN: Content distribution network." arXiv preprint cs/0411069 (2004) https://arxiv.org/pdf/cs/0411069
EX-2022	The History of Streaming Media. https://boyetblog.s3.amazonaws.com/PCPlus/324.Streaming.pdf
EX-2023	RFC 2326: Real Time Streaming Protocol (RTSP) https://www.ietf.org/rfc/rfc2326.txt
EX-2024	Adobe’s Real Time Messaging Protocol https://rtmp.veriskope.com/pdf/rtmp_specification_1.0.pdf
EX-2025	WebRTC 1.0: Real-time Communication Between Browsers https://www.w3.org/TR/2011/WD-webrtc-20111027/

Exhibit	Description
EX-2026	HTTP Live Streaming: draft-pantos-http-live-streaming-01 https://datatracker.ietf.org/doc/html/draft-pantos-http-live-streaming-01
EX-2027	Microsoft To Add Smooth Streaming in IIS7 https://virtualizationreview.com/articles/2008/11/04/microsoft-to-add-smooth-streaming-in-iis7.aspx
EX-2028	HTTP Dynamic Streaming. (Archived May 14, 2010) https://web.archive.org/web/20100514170442/http://www.adobe.com/products/httpdynamicstreaming/
EX-2029	MPEG ratifies its draft standard for DASH. (Archived December 14, 2011) https://web.archive.org/web/20111214104626/http://mpeg.chiariglione.org/meetings/geneva11-1/geneva_press.htm
EX-2030	Mogulus Rebrands With A Killer Domain: Livestream.com https://techcrunch.com/2009/05/18/mogulus-gets-a-killer-domain-for-rebranding-livestreamcom/
EX-2031	How to watch Obama's inauguration (and the parties) online https://www.cnet.com/tech/tech-industry/how-to-watch-obamas-inauguration-and-the-parties-online/
EX-2032	Twitch is 4th in Peak US Internet Traffic https://blog.twitch.tv/en/2014/02/05/twitch-is-4th-in-peak-us-internet-traffic-90b1295af358/
EX-2033	Twitch Engineering: An Introduction and Overview https://blog.twitch.tv/en/2015/12/18/twitch-engineering-an-introduction-and-overview-a23917b71a25/
EX-2034	*Proceedings of the 25th ACM workshop on network and operating systems support for digital audio and video*, pp. 55-60, 2015 https://arxiv.org/pdf/1502.04666
EX-2035	U.S. Patent 11,039,218 Certified File History
EX-2036	Ellis *et al.* U.S. App. No. 2008/0062318
EX-2037	Shoff *et al*. US 2001/0001160
EX-2038	DeWeese *et al*. US 2001/00392.09
EX-2039	Bocharov *et al.* US 2011/0083144
EX-2040	Institution Decisions for IPR2024-1305, IPR2024-1307, IPR2024-1308, IPR2024-1309, IPR2024-13010, IPR2024-1311
EX-2041	Supplemental Declaration of Aviel Rubin, Ph.D.
EX-2042	Transcript of Deposition of Dr. Stephen Wicker, May 7, 2025
EX-2043	U.S. Patent No. 10,009,394

Pursuant to the Scheduling Order (Paper No. 11, Patent Owner SportsCastr Inc. (d/b/a PANDA Interactive) ("Patent Owner" or "PANDA") respectfully submits this Patent Owner Sur-Reply to Petitioner's Reply (Paper No. 24) submitted by Petitioner Genius Sports Ltd. ("Petitioner" or "Genius") on August 29, 2025.

I. INTRODUCTION

Petitioner's Reply does not cure the fundamental deficiencies in its obviousness case and relies on unsupported technical assumptions and hindsight reasoning. As detailed below, the cited prior art does not teach or suggest the claimed architecture, nor does Petitioner provide a reasoned basis or evidence that a person of ordinary skill would have been motivated to combine the references with a reasonable expectation of success.

I. ARGUMENT

A. Grounds 1 and 2C: Spivey Does Not Teach or Suggest the Claimed "Event Sockets"

1. Spivey requires the LDAS as an intermediary between the MQS and end-user client devices.

As it did before, Petitioner continues to argue that Spivey discloses a direct connection between end-user client devices and Spivey's MQS. (Pet. Reply at 2-8.) To make that argument, Petitioner relies on an incorrect reading of isolated portions of Spivey's disclosure, and on Spivey's use of "may."

For example, Petitioner cites to EX-1017, [0046], which states "MQS communication component 308 may also receive requests to subscribe to topics in a topic set 330, and ***may push data from topic queues 332-1, 332-n to the subscribers*** of the topics corresponding to those topic queues." (Pet. Reply at 3 (Petitioner's emphasis).) According to Petitioner, this statement in Spivey "***indicat[es]*** that the MQSD can deliver data directly to clients without the necessity of an LDAS." (Pet. Reply at 3.)[1] But nothing in Spivey's Paragraph [0046] requires or suggests such a direct connection. Nor does anything in that statement by Spivey preclude an intermediary between the MQS and the end-use client devices.

In fact, Petitioner has not pointed to any disclosure in Spivey that explicitly states that Spivey's MQS can form direct connections with end-user client devices. This lack of this explicit disclosure is why Petitioner is limited to arguing that Spivey merely "***indicat[es]***" such a direct connection. (Pet. Reply at 3 ("***indicating*** that the MQSD can deliver data directly to clients") and ("***indicating*** that the LDAS is optional").) But when viewed as a whole, Spivey indicates the opposite: Spivey's MQS does not form direct connections with end-user client devices.

Further, Petitioner's conclusion about Spivey's Paragraph [0046] is contingent on its interpretation that end-user client devices are "subscribers." But

[1] Unless otherwise noted, all emphasis is added.

Spivey discloses the LDAS as the component that subscribes to the topic queues at Spivey's MQS, not end-user client devices. (*See* EX-1017, [0049] (stating that the data payload is pushed "from the topic queue to a [LDAS] that has subscribed to the topic of the topic queue.") [0051] (stating that data payloads are "pushed to a subscribing [LDAS]."); [0078] (stating that the "[LDAS] 130 may then subscribe to the selected topic(s) with message 720 to message queue server 120" and that "[s]ubscribing to a topic may include registering with message queue server 120 that [LDAS] 130 is to receive any data payload placed in a topic queue for that topic."); [0094] ("[LDAS] 130 may subscribe to the requested topic at a message queue server 120.").)

In an effort to retreat from the explicit disclosure of Spivey, Petitioner resorts to misquotes and mischaracterizations. (Pet. Reply at 6.) For example, Petitioner misquotes Spivey's Paragraph [0043] by leaving out the underlined portion of the sentence: "[C]lient communication component 208 may request and participate in a websocket connection <u>with live data access server 130</u>." (Pet. Reply at 6 (citing EX-1017, [0043]).)

Petitioner also overreaches with its reliance on Spivey's use of "may." Petitioner seeks to support its interpretation by attacking Dr. Rubin as "not understand[ing] the term 'may'" and for "not offer[ing] a concrete rule for distinguishing when 'may' indicates whether a component is optional versus

mandatory." (Pet. Reply at 3-4.) But Petitioner fails to explain why Dr. Rubin is required to offer such a concrete rule. Instead, the obviousness inquiry is made by considering the prior art as a whole. *See In re Hedges*, 783 F.2d 1038, 1041 (Fed. Cir. 1986); accord *In re Baird*, 16 F.3d 380, 383 (Fed. Cir. 1994) quoting *In re Burckel*, 592 F.2d 1175, 1179, 201 USPQ 67, 70 (CCPA 1979) ("[A] reference must be considered not only for what it expressly teaches, but also for what it fairly suggests.").

From Dr. Rubin's perspective, "when [Spivey] says something ***may*** be the case," Spivey could mean "that it ***must*** be the case." (EX-1063, 63:22-64:15.) As a specific example, Dr. Rubin noted that by using Petitioner's "same logic, Spivey's system ***may*** include a message queue server or not." (EX-1063, 64:5-12; EX-2001, ¶177; *see also* EX-1017, [0035] ("The system 100 ***may*** include a message queue server 120.").) Indeed, Spivey uses the term "may" approximately 466 times throughout its disclosure. Using Petitioner's and Dr. Wicker's logic, every component disclosed in Spivey would be optional. But as Dr. Rubin testified, Spivey's MQS is, at the very least, critical to Spivey's invention and thus cannot be optional. (EX-1017, [0027] (discussing increased speed of data distribution "by using ***topic queues***," which are processed at the MQS).) Nor has Petitioner disputed that the MQS is necessary.

Despite Spivey's extensive use of the term "may," it is notable that Spivey never explicitly discloses the "option" that Petitioner seeks to use—that Spivey's MQS may send live data directly to client devices without first passing that data through an intermediary. The lack of this explicit disclosure stands is direct contrast to other explicit disclosures in Spivey that contradict Petitioner's argument, namely that "[l]ive data access server 130 may provide a public interface between client devices 110 and message queue server 120," (EX-1017, [0038]), and, perhaps more importantly, that "[i]n some embodiments, message queue server 120 is ***not*** accessible to clients over the network directly," because, "[f]or example, message queue server 120 may be behind a firewall (not shown)," (EX-1017, [0036]).

In Spivey, the MQS is the only component described as being behind a firewall. (EX-1017, [0036].) Similarly, the LDAS is the only component described as capable of authenticating end-user client devices. (EX-1017, [0062] (LDA communication component 520 "may authenticate the requesting client" and "operators 108 may need to register with [LDAS] 510 in order to be able to subscribe to and receive the live data"); [0063] "[LDAS] 510 may include an interface component 530" that may "provide an interface to allow an operator to request and authenticate a connection to [LDAS] 510"); [0072] (Spivey discloses that its "message 702" (Fig. 7) "may include authentication information for operator 108" and Fig. 7 shows that "message 702" is between the client device 200 and LDAS

130); [0073] ("[LDAS] 130 may authenticate the client at message 704"); [0074] ("[i]f the authentication succeeds, then a connection between client device 200 and [LDAS] 130 may be opened"); [0081] (describing a user interface on a client device that an operator may use to enter authentication information "to request a live data connection with a [LDAS]"); [0092] (discussing how LDAS 130 may receive an authentication request from the client).) These disclosures by Spivey cut against Petitioner's argument that end-user client devices and Spivey's MQS may interact directly because the MQS is behind a firewall and the end-user client device must be authenticated by the LDAS before it can receive the live data.

Petitioner further attempts to argue that "the functionality of the LDAS can be provided by a server functioning as both the MQSD and LDAS." (Pet. Reply at 3.) But this is a distinction without a difference—even if implemented on a single server, Spivey discloses that the functionality of the LDAS is still required. For example, Petitioner points to Spivey's "Distributed System" in Fig. 22 as an example of Spivey's "single server" embodiment. (Pet. Reply at 4-5.) But Fig. 22 explicitly depicts the LDAS as a component. It also shows interactions between the "Server Device 2250," which includes "[LDAS] 130", and "Client Device 2210." (Pet. Reply at 5; EX-1017, Fig. 22.) In contrast, Fig. 22 shows neither the MQS nor any interactions between the MQS and end-user client devices.

Petitioner's attempt to argue that Dr. Rubin somehow acknowledged that Fig. 22's single server implementation "facilitat[es] direct client-MQSD communication" and "confirm[s] that [Spivey's] architecture [in Fig. 22] permits, but does not require, an LDAS intermediary" is a mischaracterization of Dr. Rubin's testimony. (Pet. Reply at 4-5.) Rather, Dr. Rubin simply confirmed what Spivey already discloses—that server device 2250 may implement multiple functionalities, including the functionality of Spivey's LDAS (EX-1063, 72:22-73:3, 82:3-83:1), but the MQS is "not being shown in Figure 22" and "it doesn't say that the client would make a direct connection to the [MQS]." (EX-1063, 72:5-73:3.)

In one final reach on this issue, Petitioner points to claim 7 of the Spivey patent application publication (EX-1017) and observes that it "requires a message queue server and client device, but not an LDAS." (Pet. Reply at 7.) But Spivey's claim 7, which uses "comprising" language, does not preclude the LDAS as a requirement to Spivey's overall architecture. Additionally, Spivey, EX-1017 (*i.e.*, U.S. Patent Publication No. 2016/0036910), was issued as U.S. Patent No. 10,009,394 (the "'394 patent") on June 26, 2018. The '394 patent has 15 claims, four of which are independent (claims 1, 6, 11, and 12). Each of the four independent claims requires a "live data access server." (EX-2043 at 25:32-27:10.)

2. Spivey's topic queues are not uniquely addressable communication endpoints.

With respect to Spivey's topic queues, Petitioner repeats the same arguments (Pet. Reply at 8-9) that have already been rebutted by Patent Owner and Dr. Rubin (*see, e.g.*, POR at 2-3, 34-40). The portions of Dr. Rubin's deposition on which Petitioner now relies do nothing to support Petitioner's position because Dr. Rubin is simply confirming what Spivey and the challenged patents already state. At bottom, and as Petitioner and Dr. Wicker acknowledge (Pet. Reply at 8 (referring to Spivey's topic labels as text strings)), Spivey's topic labels are simply text strings that lack an address through which they can communicate. (POR at 2.) That is, Spivey's "gamecenter.nfl.ravenssteelers.stats" is simply a label; it is ***not*** a URL that provides a "uniquely addressable communication endpoint." Nor does Spivey ever refer to "gamecenter.nfl.ravenssteelers.stats" as a URL.

Spivey mentions the term "URL" a single time in Paragraph [0082] when discussing "UI 800" and "UI element 830." (*See also* EX-1017, Fig. 8.) In that paragraph, Spivey discloses only that "the address or connection information" "may ***resemble*** a [URL]." (EX-1017, [0082].) Even so, Spivey's Paragraph [0082] and Fig. 8 disclose that a connection is made only to Spivey's LDAS. (EX-1017, [0082], Fig. 8.)

Petitioner's reliance on Spivey's bidirectional websocket connections also fails to support its argument that Spivey's topic queues at Spivey's MQS are the

claimed event sockets. The term "websocket" appears five times in Spivey's specification. (EX-1017, [0043], [0061], [0074], [0092].) Each time it refers to a connection between an end-user client device and Spivey's LDAS. (*Id*.) Spivey never refers to a websocket connection between an end-user client device and Spivey's MQS, and, more specifically, never between an end-user client device and Spivey's topic queues.

3. Spivey's disclosure that its MQS may be implemented as a RabbitMQ does not confirm that the LDAS is optional.

According to Petitioner, Spivey's disclosure that the MQS may be implemented using the open-source RabbitMQ "undermines" Patent Owner's position and is "inconsistent with Spivey's disclosure, which contemplates the optional use of an LDAS." (Pet. Reply at 10-12.) Petitioner is incorrect.

Spivey's disclosure of a RabbitMQ implementation appears in Paragraph [0058] only. In that Paragraph, Spivey states: "RABBITMQ™ facilitates topic queues that receive published messages and push the messages to clients that have subscribed to the topic queues." (EX-1017, [0058].) According to Petitioner, this implementation with RabbitMQ "permits direct connections between clients and an MQSD," presumably because Spivey uses the term "clients" in Paragraph [0058]. (Pet. Reply at 10.) But this disclosure in Spivey does not indicate what it refers to as being a "client[] that [has] subscribed to the topic queues." (EX-1017, [0058].) When viewed as a whole, the "client" that Spivey refers to in Paragraph [0058] is

Spivey's LDAS because, as discussed above, Spivey discloses the LDAS as the component that subscribes to the topic queues at Spivey's MQS. (*See, supra*, II.A.1.) In contrast, according to Spivey, end-user client devices subscribe to the LDAS. (EX-1017, [0038] ("For example, [LDAS] 130 may allow operators 108 of client devices 110 to select topics related to a live event to subscribe to, and may retrieve the topic information and push the information to client devices 110."); [0039] ("A client device, e.g., client device 110-1, may be usable by an operator, e.g., operator 108-1, to subscribe to an receive live data via [LDAS] 130."); [0062] ("In some embodiments, operators 108 may need to register with live data access server 510 in order to be able to subscribe to and receive the live data.").

Dr. Wicker's Supplemental Declaration does not dispute this reading of Spivey. For example, Dr. Wicker just states that "[c]lients connect to the RabbitMQ server," without specifying what the "client" is. (EX-1064 at 8.)

B. Ground 1: Petitioner's Ellis-Spivey Combination Fails

Petitioner's arguments that a POSITA would have been motivated to combine Ellis and Spivey rely on the same misreading of Spivey that Patent Owner has already addressed. (Pet. Reply at 13-14.) In short, Spivey's disclosure and architecture requires the LDAS as an intermediary between Spivey's MQS and end-user client devices, and Spivey's topic queues are not the claimed "event sockets" because they are not uniquely addressable endpoints. (*See supra*, II.A.2.) For this

independent reason, Petitioner's motivation to combine arguments should be rejected.

Additionally, Petitioner's attempt to argue that Spivey discloses a database while Ellis does not require a database is unavailing. (Pet. Reply at 14.) Ellis states that "[d]atabase 122 may also store the interactive sports watcher application itself," (EX1016, [0044]), which Dr. Rubin noted is "critical to supporting the enhanced access and viewing functionality Ellis sought to achieve." (EX-2001, ¶191 (citations and quotations removed).) But Petitioner's combination deletes Ellis's supplemental content source (and associated "database 122") and never identifies any component in Spivey that would replace the functions that Ellis assigns to that supplemental content source and database. (EX-1016, [0042]-[0044]; EX-2001, ¶¶188-196.)

Further, Spivey mentions a database twice in its whole disclosure. (EX-1017, [0028], [0157].) In Paragraph [0157], Spivey states that "a shared database architecture" is a component that a distributed system may have, but does not provide any details on what functions such a database would have in the context of Spivey's overall architecture. In Paragraph [0028], Spivey mentions a database in the context of "[c]onventional live event data content providers" and suggests that such an implementation "may cause latency or a delay," which is the problem that Spivey attempts to solve. Given that Spivey identifies conventional systems that

include a database as part of the problem of the prior art, a POSITA would not have been motivated to implement the database mentioned in Spivey to replace the database Petitioner's combination removed from Ellis.

Petitioner's argument that the combination of Ellis and Spivey would have improved latency is also unsupported and speculative. (Pet. Reply at 14-15.) Ellis does not identify a latency problem that could be solved by implementing components of Spivey. (EX-2001, ¶208; POR at 45-47.) And Spivey's touted "two orders of magnitude" latency reduction (EX-1017, ¶96) depends on the specific LDAS-mediated message flow that Petitioner removes. (EX-2001 ¶¶183–190.) Petitioner's claim that simply "incorporating any of Spivey's embodiments" into Ellis would improve latency (Pet. Reply at 15) is conclusory and ignores that Petitioner's Ellis-Spivey combination would be inoperable because it lacks any server capable of communicating with end-user clients.

That is, Patent Owner has shown that removing Ellis's supplemental content source and inserting only Spivey's MQSD/LDSD leaves no LDAS, no "subscription component 540," and no "interface component 530" capable of relaying data to Ellis's user equipment. (POR at 3-7, 41-47; EX-2001 ¶¶187–196, 201.) Petitioner never identifies any MQSD component in Spivey that accepts end-user client subscriptions, authenticates and maintains end-user client connections, or interfaces with client applications as the LDAS does.

Further, Petitioner's reliance on *Keller* is misplaced. (Pet. Reply at 7 (citing *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).) PANDA does not demand bodily incorporation of Spivey; it shows that Petitioner's specific modification discards Spivey's required LDAS functions that make the message flow work and allegedly reduce latency. (*See* Ex-1017 ¶¶69–70, 96–101 (latency benefits described in context of LDAS push to subscribed clients); EX-2001 ¶¶183–190, 194–205; EX-2041 ¶¶17–18.) *Keller* does not permit hindsight reconstruction that strips away a reference's core operating principles. *See Metalcraft of Mayville, Inc. v. The Toro Co.*, 848 F.3d 1358, 1367 (Fed. Cir. 2017).

Petitioner again relies on Ellis's description of "comprehensive wagering support" (Pet. Reply at 12-13 (referring to EX-1016, [0098])), but, as explained in the POR, Petitioner's combination removes Ellis's supplemental content source 120 and database 122 and substitutes Spivey's message queue server device (MQSD) and live data server device (LDSD). (POR at 41-42; *see also id*. at 43.) The POR shows that Spivey's MQSD/LDSD are not content origins and, as taught in Spivey, ordinarily deliver payloads through an intervening LDAS. (*Id*. at 42.) The record evidence cited in the POR explains that Petitioner's own Ellis/Spivey diagram omits any LDAS and fails to identify a remaining repository or pathway in the modified system that stores or supplies the alleged "online gaming information" to user equipment. (*Id*. at 43-45.)

The Institution Decision preliminarily treated Ellis's database as optional and credited Petitioner's proposal of "implementing Ellis's [supplemental content source] using Spivey's [live data server device] and adding Spivey's [message queue server device]," while pointing to Ellis's disclosure that supplemental content may be provided via real-time feeds. (Institution Decision at 36-39.) The full trial record now demonstrates that Petitioner still has not shown where, in its modified architecture, the wagering information would originate or how it would be transmitted to the client devices in the absence of Ellis's database and with no LDAS in the path. Ellis's own text places wagering, odds/lines, and related sports information at the supplemental content source/database, and Spivey's figures and description teach that MQSD/LDSD act as brokers of data received from live data sources rather than serving as the data sources themselves. And, as explained above, Spivey's topic queues are not uniquely addressable endpoints for client access absent the LDAS interfaces Spivey describes. (*See supra* at I.A.2.) On this record, Petitioner's Ellis/Spivey ground still fails to disclose receiving/rendering "online gaming information" in the actual combined system Petitioner proposes.

C. Ground 2A: Herzog does not anticipate claims 21-22 and 27-28.

Petitioner's Reply repeats the same general arguments regarding "online gaming information" as in the Petition without elaboration. (Pet. Reply at 17-18.) Those arguments have already been addressed in the Patent Owner Response. (POR

at 50-53.) More specifically, Herzog's disclosure of telemetry data associated with a car race is limited, and Herzog fails to teach or suggest how such telemetry data would be considered "online gaming information" as disclosed and claimed in the '218 patent. Herzog contains no express disclosure of wagering lines, odds, money lines, spreads, implied probabilities, or sportsbook markets that would lead a POSITA to understand Herzog's telemetry data as relating to "online gaming." Without this disclosure in Herzog, Petitioner is limited to relying on an inherency argument, but inherency is not established by mere probabilities or possibilities. *See Bettcher Indus., Inc. v. Bunzl USA, Inc.*, 661 F.3d 629, 639 (Fed. Cir. 2011). On the current record, Petitioner's inherency theory remains conclusory and insufficient because Herzog's telemetry data does not necessarily include "online gaming information."

D. Ground 2C: Petitioner's arguments that a POSITA would be motivated to combine Herzog-Spivey fail.

Petitioner's Reply does not cure the fundamental deficiencies in its motivation to a combined Herzog-Spivey system. (Pet. Reply at 17-21.)

As Petitioner acknowledges, Herzog's operation depends on the deliberate latency differential between video and metadata streams to enable accurate timestamp matching and synchronization. (Pet. Reply at 18-21.) Accelerating metadata delivery, as Petitioner proposes, would not only add unnecessary processing burden but would also undermine the core synchronization mechanism,

risking inoperability and defeating Herzog's intended function. (EX-1015, [0058], [0070]-[0077]; POR at 6-7, 54-62.)

Petitioner fails to identify any prior-art teaching or technical rationale demonstrating that such an alteration would predictably improve Herzog's system. Patent Owner has already established that combining Herzog with Spivey as Petitioner contends would not have improved Herzog. (POR at 54-56.) Without a reduction in Herzog's video/audio data latency, reducing the data-only latency would not have improved Herzog because it would still be slaved to the video/audio data. (EX-1015, [0058]; *see also* Pet. Reply at 19 (agreeing that Herzog teaches that "a greater latency difference between the live videos stream and data stream is preferable"), 21 (acknowledging that Herzog would maintain its video-content delivery system).)

Petitioner's rationale now seems to be that "reducing the data delivery period while maintaining the video latency period provides the system more time to process multiple requests and reduce demand on its components." (Pet. Reply at 19.) Petitioner does not cite to anything that supports this statement. In contrast, Herzog states that the two types of data are synchronized "for display on the video player" "[s]o long as the viewer makes no other audio/video selection from a specific source and makes no other meta-data selection from another specific source (or time

stamp)." (EX-1015, [0079].) Thus, Petitioner's rationale is inconsistent with the specific teachings of Herzog.

Petitioner's proposed modification introduces new technical challenges, such as the need to buffer or otherwise manage early arriving metadata, which are not addressed in the cited art. The absence of any evidence that a person of ordinary skill would have reasonably expected success with this approach further underscores the speculative and hindsight-driven nature of Petitioner's argument.

II. CONCLUSION

For all the reasons stated herein, Petitioner has failed to establish that the challenged claims of the '218 patent are unpatentable. Patent Owner respectfully requests the Board find the challenged claims patentable over the grounds in the Petition.

Dated: October 10, 2025

Respectfully submitted,

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CERTIFICATION OF WORD COUNT

The undersigned hereby certifies that the portions of the above-captioned **PATENT OWNER SUR-REPLY and EXHIBIT** specified in 37 C.F.R. § 42.24 have 3,693 words, in compliance with the 5,600 word limit set forth in 37 C.F.R. § 42.24. This word count was prepared using Microsoft 365 Word version 2502.

Dated: October 10, 2025

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CERTIFICATE OF SERVICE

I certify that I caused to be served a true and correct copy of the foregoing: **PATENT OWNER SUR-REPLY and EXHIBIT** were served by filing this document through the Patent Trial and Appeal Case Tracking System (P-TACTS) on October 10, 2025, in its entirety on the following:

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