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PTAB Oral Argument

TikTok Inc.

V.

NTECH Properties, Inc.

December 18, 2025

Case No.: IPR2024-01342

Patent No.: 8,886,753

Kramer Levin is now HSF Kramer

IPR2024-01342 ('753 Patent) – Grounds

Ground	Challenged Claims	35 U.S.C. §	References
1	1-10	103	Whitehead
2	1-10	103	Whitehead and Marcus '904
3	1-10	103	Cristofalo and Marcus '904

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

Summary of the Arguments

- The '753 Patent's Challenged Claims are patentable because:
 - **GROUND 1 and 2 (Whitehead):**
 - Whitehead does not disclose a publisher that “acquir[es] the feed selection” and “provid[es] individual customized media programming” by “concatenat[ing]” media elements with the feed selected (All Challenged Claims); and
 - Whitehead does not disclose “furnish[ing]” a “first feed” and a “second feed” during first and second time periods (Dependent Claim 5).
 - **GROUND 3 (Cristofalo):**
 - Cristofalo in view of Marcus '904 does not disclose a “publisher” that selects, orders and concatenates media elements with the selected feed (All Challenged Claims); and
 - Cristofalo in view of Marcus '904 does not disclose furnish[ing]” a “first feed” and a “second feed” during first and second time periods (Dependent Claim 5).

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Overview of the '753 Patent

SUMMARY OF THE INVENTION

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In an embodiment, a method of generating media programming is provided. A client receives from an aggregator a menu of selectable feeds. A selection of one of the selectable feeds is received at the aggregator. In response to the selection, a client is provided with media programming generated by a publisher. Information relating to the client, which may include, by way of example, user selections or user information, is furnished to the publisher. In response to receiving the user selections or user information, the publisher provides media programming, dependent at least in part on the received user selection or user information.

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What is claimed is:

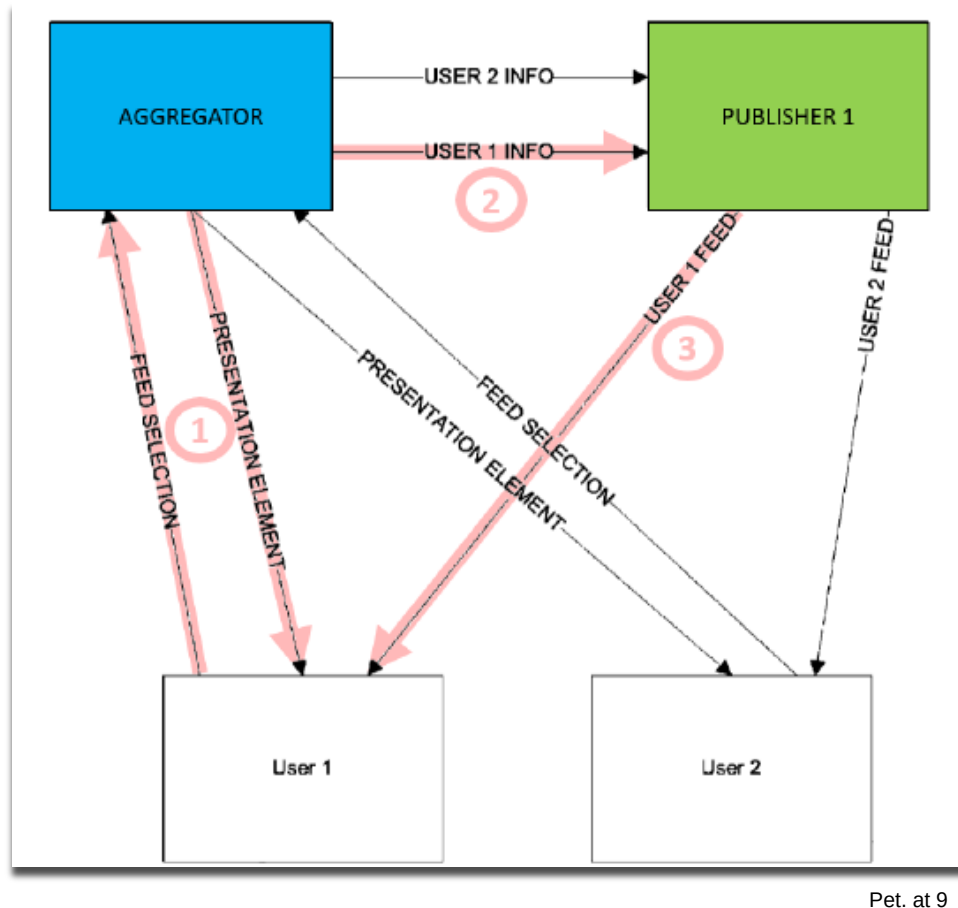
1. A method of generating media programming, comprising:
 - delivering by an aggregator to a client a list of feeds;
 - receiving by the aggregator from the client a selection of one of the feeds;
 - acquiring by a publisher from the aggregator the feed selection;
 - collecting by the publisher from the aggregator client information, wherein said client information comprises user information; and
 - providing to the client individual customized media programming based on a publisher-initiated feed responsive to the feed selection and including media elements selected, ordered, and concatenated with the feed that are responsive at least in part to the user information.

The '753 Patent describes and claims generating individual customized media programming by acquiring a selected feed and concatenating the selected feed with additional media elements selected based on user information.

'753 Patent at 1:36-46, Claim 1

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Overview of the '753 Patent



Claim 1 Recites:

- (1) An aggregator providing a list of selectable feeds.
- (2) The aggregator providing the feed selection and user information to a publisher.
- (3) The publisher generating individual customized media programming, comprising the selected feed and other media elements. Pet. at 8-9.

Pet. at 9; '753 Patent at Fig. 1; see also '753 Patent Fig. 5, 11:35-12:13.

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Claim Construction

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Claim Construction: “Feed”

Term	NTECH’s Construction	Petitioner’s Construction
“Feed”	A feed consists of “one or more associated media elements.”* POR at 4.	A feed consists of a “container[] for media” that does “not necessarily include media at all times.” Reply at 2.

*The word “associated” is meant to be understood broadly to include any association between the media elements and does not imply that the media elements in a feed must share any particular characteristics. POR at 4 n.1.

Claim Construction: “Feed”

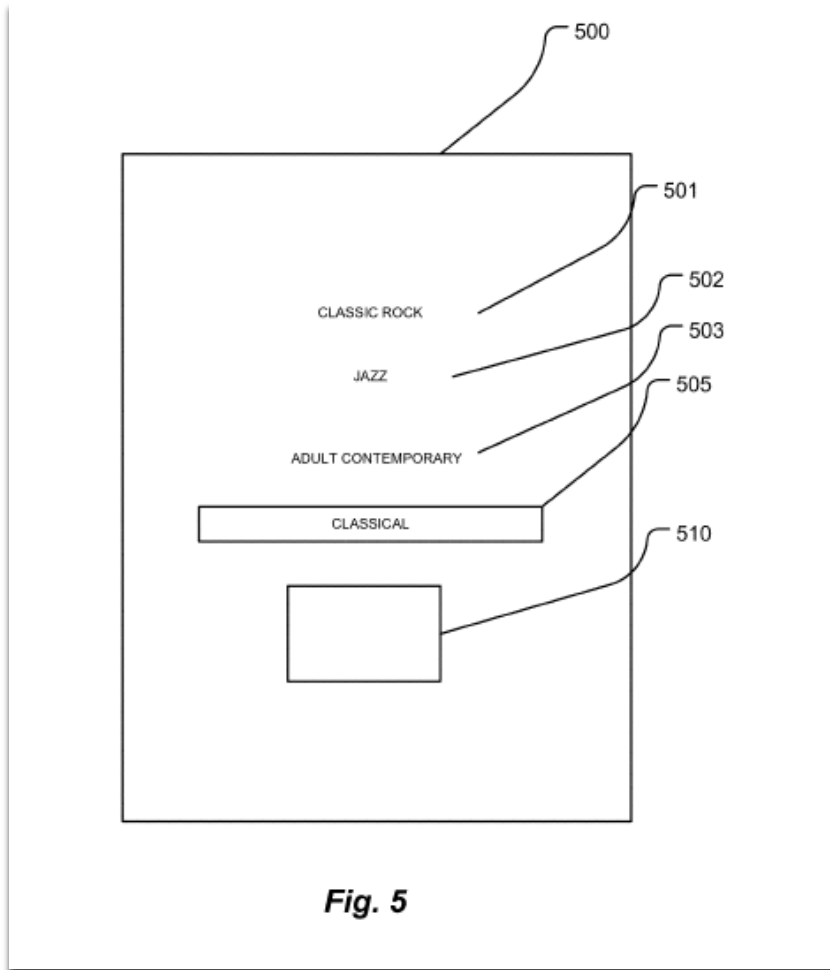
Term	NTECH’s Construction
“Feed”	A feed consists of “one or more associated media elements.”* POR at 4.

- **Antecedent basis:** confirms that a feed consists of one or more media element because:
 - “[T]he feed” that is “concatenated with” additional media elements is the same feed in “a list of feeds” and provided in “the feed selection.”
- **The Specification:** defines a feed as a collection of media elements.
- **Dictionary definitions:** define a feed as a collection of media elements.

POR at 4-8 (citing ‘753 Patent, Claim 1, 2:59-65, 3:1-9, 12:30-31; Exs. 2017, 2018, 2019).

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Claim Construction: “Feed”



The specification describes the feed as consisting of media elements at selection:

- A selectable feed (“classical”) is listed on a home page and its media elements displayed in a display window.
 - “[E]ach [music] feed listed on a home page **contains predetermined content**, not customized for a viewer or user.” ’753 Patent at 11:25-38.
- Upon selection, an individual customized media programming is generated.
 - The selected music feed is customized based on user information. ’753 Patent at 11:65-12:13.

’753 Patent at Fig. 5; Sur-Reply at 8-9

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Grounds 1 and 2: Whitehead

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The Relevant Asserted Reference: Whitehead

Whitehead does not disclose providing individual customized media programming by concatenating the selected feed and other media elements in response to the user's selection of the feed, as in the Challenged Claims.

Instead

Whitehead's custom media channels 170 are provided either by:

“(1) selecting a characteristic (e.g., attribute) corresponding to the channel that causes the creation of the custom media channel 170; or

(2) selecting a pre-generated custom media channel that is simply presented.” POR at 13.

Whitehead Does Not Disclose Selecting a Feed and Concatenating Additional Media Elements with the Selected Feed

- Whitehead describes two embodiments: (1) a real-time embodiment; and (2) a pre-generated embodiment

The real-time embodiment:

upon selection of a menu item, creates a custom media channel 170.



No selection of an existing feed.

The pre-generated embodiment:

A custom media channel 170 is previously generated and is simply presented upon selection.



No additional media elements are concatenated with the existing channel responsive to the channel selection.

Whitehead Does Not Disclose Selecting a Feed and Concatenating Additional Media Elements with the Selected Feed

The Petition's Media Feed Mapping 1 fails because:

- **Real-time embodiment:** the selected menu item (e.g., names, identifiers) does not correspond to an existing “feed” because no custom media channel 170 exists at selection.
- **Pre-generated embodiment:** the pre-generated channel is not concatenated with additional media elements in response to the channel's selection.

POR at 11-14

- The Reply does not dispute that Whitehead's real-time embodiment does not reach the Challenged Claims given that there is no existing feed selected from the menu.
- The Reply's pre-generated embodiment argument fails because media elements are added **responsive to changes in the corresponding profile**, which do not occur.
 - The Challenged Claims require concatenating other media elements with the selected feed **“responsive to the feed selection.”** ^{'753 Patent at Claim 1.}

Sur-Reply at 7-9; Whitehead at 11:59-12:7

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Whitehead Does Not Disclose Selecting a Feed and Concatenating Additional Media Elements with the Selected Feed

The Petition's Media Feed Mapping 2 fails because:

- Petitioner relies on the selection of a custom media channel 170 from a menu. This selection is either of a menu item to generate in real-time a channel (real-time embodiment) or the selection of an already created channel that is simply played (pre-generated embodiment).
- Therefore, Media Feed Mapping 2 shares the same deficiencies as media feed mapping 1.

POR at 14-15

The Reply's real-time embodiment one-to-one correspondence between a user profile 160 and a content source 135 is meritless because:

- A content source is not the claimed "feed" presented in a list and selected from the list.
- When Whitehead's channel is generated in real-time, the user selects a menu item placeholder that triggers the real-time creation of the channel.

POR at 14-15; Sur-Reply at 10-11; Whitehead at 7:5-18, 12:18-31.

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Whitehead Does Not Disclose Furnishing First and Second Feeds at Different time Periods (Dependent Claim 5)

- **Claim 5 requires:** (1) a first feed furnished at a first time period; and (2) a second feed comprising the individual customized media programming furnished at a second time period. '753 Patent at Claim 5.
- Whitehead only furnishes a single custom media channel. Pet. at 28 (acknowledging that the custom media channel is generated in or near real time).
- Contrary to Petitioner's position, it would not have been obvious to provide a predetermined advertisements (15 to 30 seconds long) beforehand:

Because Whitehead's custom channels are delivered in real-time or near real-time, the custom channel is available to the user "immediately or almost immediately," so there is no need to provide a pre-determined advertisement ahead of time. Compare Reply at 9 with Ex. 2022 at 1 ("Real time data is information that is updated continuously and available immediately or almost immediately.").

Sur-Reply at 12

Whitehead Does Not Disclose Furnishing First and Second Feeds at Different time Periods (Dependent Claim 5)

Petitioner's Reply argument that it would have been obvious to provide a predetermined advertisement beforehand is based on movie theaters playing advertisements and the full download time for a hypothetical media file. Reply at 8-9 (citing Ex. 1024 at ¶ 19).

Petitioner's reply argument is meritless because:

- Movie theaters playing advertisements and downloading an entire media file are irrelevant to Whitehead's streaming service, involving playing the content before the entire file is downloaded.

Whitehead Does Not Disclose Furnishing First and Second Feeds at Different time Periods (Dependent Claim 5)

In reply, Petitioner also argues that an advertisement media element can be a “first feed” and a media content element can be a “second feed” because NTECH does not show why it cannot be. Reply at 8.

Petitioner’s Reply argument is meritless because:

- Petitioner improperly shifts the burden to NTECH to demonstrate why “a single custom media channel 170 cannot contain both a first [advertisement media element] and second [media content element] feed.”
- **But** given the “second feed” claim requirements, that feed must contain multiple media elements, it cannot be an individual media element. Sur-Reply at 14; ‘753 Patent at Claim 5.

that “individual media content 155” is “a media element”). **Independent Claim 1** recites “individual customized media programming . . . including *media elements*,” and Claim 5 further recites: “a second feed comprising the individual customized media programming.” ‘753 Patent at Claim 1, 5 (emphasis added). Based on the express claim language, the claimed **“second feed” must include multiple media elements**. Whitehead’s “media content 155”—an individual media element—does not.

Sur-Reply at 13-14

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Ground 3: Cristofalo and Marcus '904

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The Relevant Asserted Reference: Cristofalo

- Cristofalo's media programming is generated by the alleged *aggregator* (receiving system 104), not the alleged *publisher* (transmitting system 102).
 - Upon the selection of a program (402), the receiving system is: pushed multiple advertisements from transmitting system (406), selects advertisements based on the user's profile (408), and assembles the advertisements with the selected program (410).

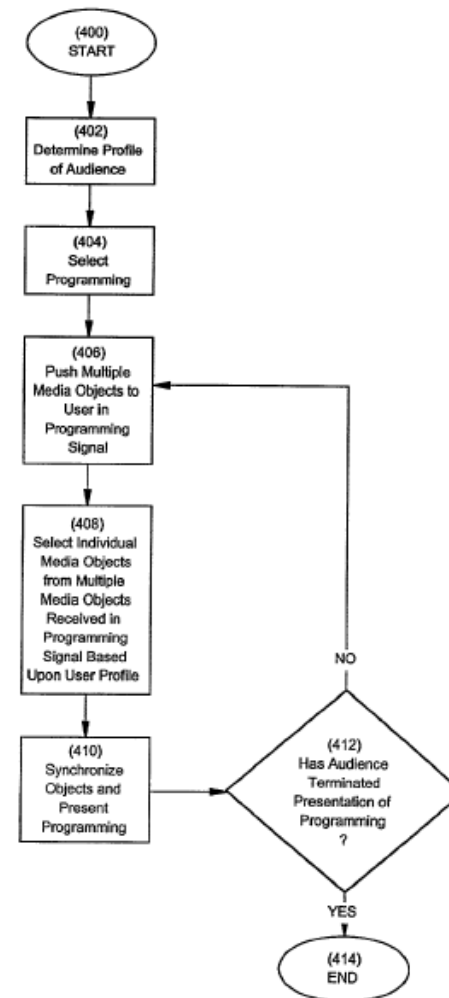


Figure 4

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE

Cristofalo in view of Marcus '904 Does Not Disclose the Claimed “Publisher”

- Independent Claim 1 is patentable over Cristofalo in view of Marcus '904 because neither reference discloses generating customized media programming at a publisher, and Petitioner does not adequately explain why a POSITA would have found it obvious to implement Marcus '904's algorithm at Cristofalo's alleged publisher.
- At institution, the Board expressed concerns with Petitioner's arguments and proposed rationale, which Petitioner does not cure in reply.

Cristofalo in view of Marcus '904 Does Not Disclose the Claimed “Publisher”

Cristofalo's transmitting end (the alleged publisher) does **not** concatenate advertisements with the selected media program.

Instead

Cristofalo's receiving end (the alleged aggregator) inserts advertisements with the selected media program.
Petitioner admits this in reply: “Cristofalo's insertion of media objects [advertisements are] at the receiving end.” Reply at 11.

Cristofalo in view of Marcus '904 Does Not Disclose the Claimed “Publisher”

Petitioner fails to provide sufficient rationale for why a POSITA would have implemented Marcus '904's algorithm at Cristofalo's transmitting end because:

- Marcus '904, like Cristofalo, discloses assembling media programming with advertisements at the receiving end. POR at 22.
- The Petition's additional disclosure rationale is “vague and unexplained.” POR at. 22-26.
 - That a reference provides additional disclosure is so vague that it could be applied to combine any two references.
 - Cristofalo already details how it assembles its final media programming, including targeted advertisements and the selected program, consequently a POSITA would not have needed to look to Marcus '904's additional disclosure.

Cristofalo in view of Marcus '904 Does Not Disclose the Claimed “Publisher”

- In reply, Petitioner does not dispute that the Petition’s rationale was vague and unexplained.
- Instead, Petitioner presents a new rationale for implementing Marcus '904 at Cristofalo’s transmitting end. **But this fails because:**
 1. It was not advanced in the Petition; and
 2. The resulting combination does not even facially reach the claimed invention since Cristofalo’s receiving end still inserts advertisements into the selected program:

the selected programing. Reply at 11 (“The proposed combination captures the best of both worlds” as it “avoid[s] competing with Cristofalo’s insertion of media objects [advertisements] at the *receiving system*.”) (emphasis added). Thus,

Sur-Reply at 17

Cristofalo Does Not Disclose Furnishing First and Second Feeds at Different time Periods (Dependent Claim 5)

The Claim requires furnishing two feeds at different times. Petitioner admits that Cristofalo furnishes only a user-specific media programming (one feed). Sur-Reply at 18.

But Petitioner argues in reply that NTECH does not show why a user-specific final media programming cannot contain first and second feeds where a feed can be “one . . . media element.” Reply at 12-13.

Petitioner’s Reply argument is meritless because:

- Petitioner improperly shifts the burden onto NTECH.
- A “second feed” must contain multiple media elements, so an individual media element in a user-specific final media programming cannot be a “second feed.” Sur-Reply at 18.

that “individual media content 155” is “a media element”). Independent Claim 1 recites “individual customized media programming . . . including *media elements*,” and Claim 5 further recites “a second feed comprising the individual customized media programming.” ’753 Patent at Claim 1, 5 (emphasis added). Based on the express claim language, the claimed “second feed” must include multiple media elements. Whitehead’s “media content 155”—an individual media element—does not.

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POR at 27-28; Sur-Reply at 18

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