

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.

---

IPR2025-00251  
Patent 11,871,088 B2

---

Before JENNIFER S. BISK, BARBARA A. PARVIS, and  
JOHN A. HUDALLA, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

DECISION  
Denying Institution of *Inter Partes* Review  
35 U.S.C. § 314

Genius Sports Ltd. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–7 and 24–34 (“the challenged claims”) of U.S. Patent No. 11,871,088 B2 (Ex. 1012, “the ’088 patent”). Petitioner filed a Declaration of Stephen B. Wicker, Ph.D. (Ex. 1001) with its Petition. SportsCastr Inc. d/b/a PANDA Interactive (“Patent Owner”) filed a Preliminary Response (Paper 7, “Prelim. Resp.”). Patent Owner filed a Declaration of Aviel Rubin, Ph.D. (Ex. 2001) with its Preliminary Response.

We have authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2024); Paper 8 (referral to panel after no discretionary denial briefing under the Interim Processes memorandum). Under 35 U.S.C. § 314(a), we may not authorize an *inter partes* review unless the information in the petition and the preliminary response “shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” For the reasons that follow, we do not institute an *inter partes* review.

## I. BACKGROUND

### A. *Real Parties-in-Interest*

Petitioner identifies Genius Sports Ltd., Genius Sports Media Ltd., Genius Sports Technologies Ltd., Genius Sports UK Ltd., Genius Sports Holdings Ltd., Genius Sports Group Ltd., Maven Topco Ltd., Maven Midco Ltd., Maven Debtco Ltd., and Maven Bidco Ltd. as the real parties-in-interest. Pet. 4–5. Patent Owner identifies SportsCastr Inc. as the real party-in-interest. Paper 5, 1.

*B. Related Matters*

As required by 37 C.F.R. § 42.8(b)(2), the parties identify the following related matters:

*SportsCastr Inc. v. Sportradar Group, AG*, 2:23-cv-00472 (E.D. Tex. filed Oct. 5, 2023);

*SportsCastr Inc. v. Genius Sports Ltd.*, No. 2:23-cv-04771 (E.D. Tex. filed Oct. 5, 2023);

IPR2024-01305;

IPR2024-01307;

IPR2024-01308;

IPR2024-01309;

IPR2024-01310;

IPR2024-01311; and

IPR2025-00252.<sup>1</sup>

Pet. 5; Paper 5, 1.

*C. The '088 Patent*

The '088 patent is titled “Systems, Apparatus, and Methods for Providing Event Video Streams and Synchronized Event Information via Multiple Internet Channels.” Ex. 1012, code (54). The '088 patent relates to systems and methods that facilitate providing live stream video and/or audio broadcasts to viewers in real time. *Id.* at 2:48–57. Figure 1A of the '088 patent is reproduced below.

---

<sup>1</sup> Of note, Petitioner concurrently filed another petition challenging claims 8–23 of the '088 patent in IPR2025-00252. Paper 3, 3. Petitioner also filed a ranking of the two petitions in which it ranked the petition in IPR2025-00252 first and the instant Petition second. *Id.*

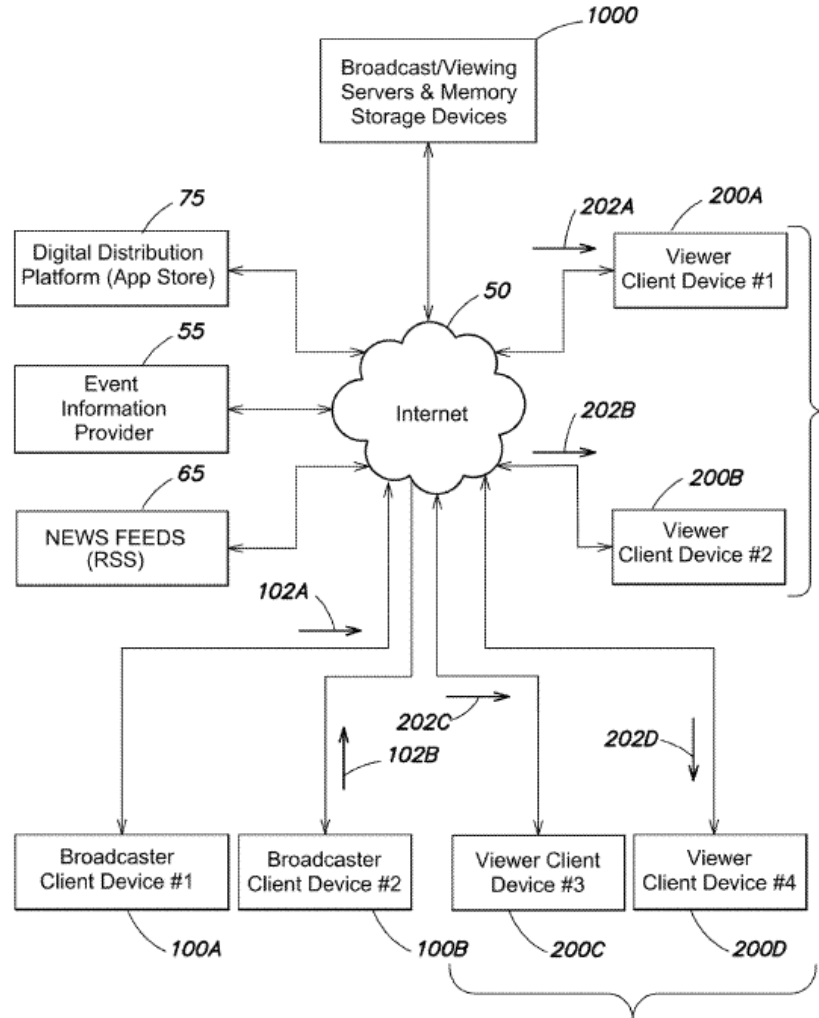


**FIG. 1A**

Figure 1A is a block diagram of a system facilitating live streaming digital content from multiple broadcasters to multiple viewers. *Id.* at 10:29–32. The system shown in Figure 1A includes broadcaster client devices 100A and 100B, viewer client devices 200A–200D, broadcast/viewing servers and memory storage devices 1000, event information provider 55, one or more news feeds 65, and digital distribution platform 75, all coupled together via Internet 50. *Id.* at 14:21–29. First broadcaster client device 100A provides first live stream of digital content 102A, and copies 202A and 202B of digital content 102A are received by viewer client devices 200A and 200B, respectively. *Id.* at 14:58–64. Similarly, second broadcaster client device

100B provides second live stream of digital content 102B, and copies 202C and 202D are received by viewer client devices 200C and 200D, respectively. *Id.* at 14:64–15:2. Broadcast/viewing servers and memory storage devices 1000 may retrieve news and/or event information germane to a live stream of digital content from news feeds 65 and event information provider 55 and convey the relevant news and/or event information to one or more client devices. *Id.* at 15:2–9.

Figure 2 of the '088 patent is reproduced below.

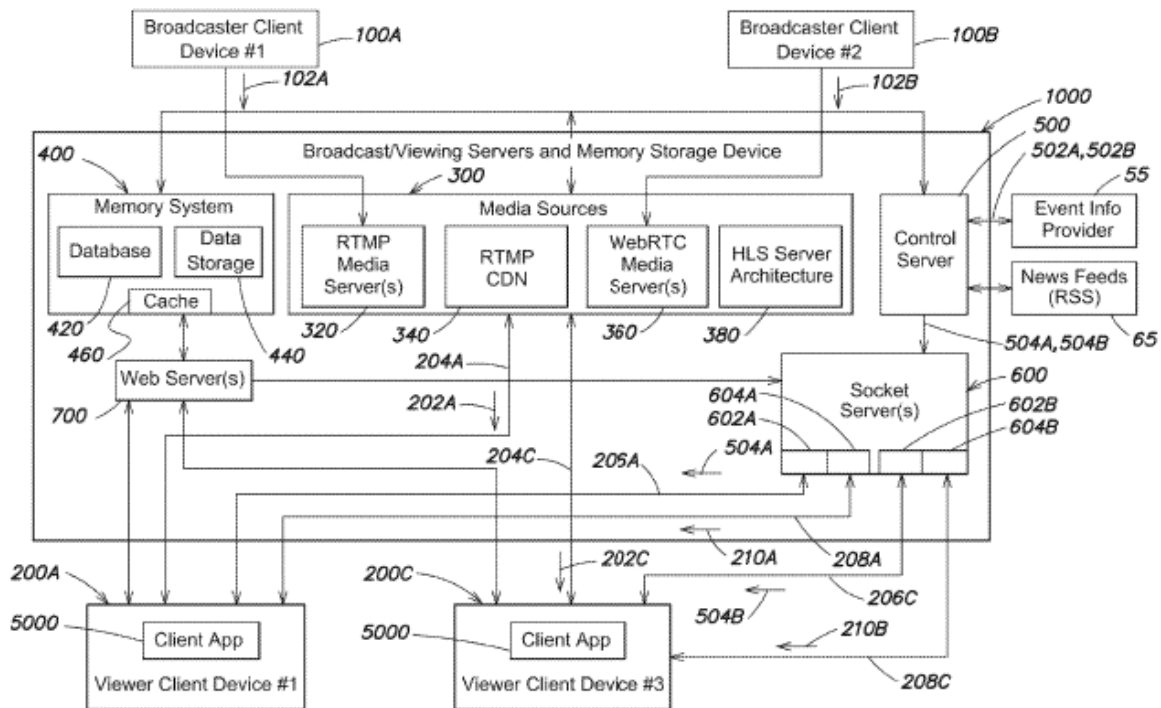


**FIG. 2**

Figure 2 is a block diagram of broadcast/viewing servers and memory storage devices 1000 in the system of Figure 1A. Ex. 1012, 10:36–38, 18:7–15. Servers/memory storage devices 1000 include, in relevant part, a plurality of media sources 300, control server 500, one or more web servers 700, and socket server 600. *Id.* at 18:26–33, 18:55–19:44. Media sources 300 receive live streams of digital content (102A, 102B) from

broadcaster client devices (100A, 100B) and provide copies (202A, 202C) to viewer client devices (200A, 200C). *Id.* at 18:55–61. Web server 700 supports an application programming interface to facilitate communication between servers/memory storage devices 1000 and client devices. *Id.* at 18:26–33. Control server 500 retrieves news and/or event information germane to the live streams of digital content (102A, 202C) from news feeds 65 and event information provider 55. *Id.* at 19:23–26. Socket servers 600 facilitate communication of synchronized event information retrieved by control server 500 to broadcaster and viewer client devices. *Id.* at 19:48–53. For example, control server 500 may retrieve first score information 504A for a first live sporting event and provide it to socket server 600, which establishes event socket 602A. *Id.* at 21:18–33. First viewer client device 200A connects to event socket 602A via a URL, and first score information 504A is transmitted to first viewer client device 200A. *Id.* at 21:40–54.

*D. Illustrative Claim*

Of the challenged claims, claims 1 and 24 are independent. Claims 2–7 depend directly or indirectly from claim 1, and claims 25–34 depend directly or indirectly from claim 24. Claim 1 is illustrative of the challenged claims and recites:

1. [1.0] A system, comprising:
  - [1.1] at least one media source to receive an audio/video feed of a live event and provide a first copy of the audio/video feed of the live event from a first media server endpoint of the at least one media source; and
  - [1.2] a webserver configured to:
    - [1.3] transmit first instructions to a first client device that includes at least one first display, the first

instructions transmitted by the webserver enabling the at least one first display of the first client device to render a first video relating to the live event and render first event information relating to the live event, wherein the first instructions transmitted by the webserver cause the first client device to:

[1.4] connect to the first media server endpoint of the at least one media source to receive, on a first communication channel between the first media server endpoint and the first client device, the first copy of the audio/video feed of the live event;

[1.5] connect to a first socket of a socket server to receive, on a second communication channel between the first socket and the first client device, first digital content corresponding to the first event information;

[1.6] render, on the at least one first display of the first client device, at least some of the first event information as at least one first user-interactive feature overlaid on or adjacent to the first video relating to the live event; and

[1.7] obtain access to first additional information relating to the live event and/or redirect to a first web site or first app when a first user selects at least a portion of the rendered at least one first user-interactive feature; and

[1.8] transmit second instructions to a second client device that includes at least one second display, the second instructions transmitted by the webserver enabling the at least one second display of the second client device to also render the first event information relating to the live event, wherein the second instructions transmitted by the webserver cause the second client device to:

[1.9] connect to the first socket of the socket server to receive, on a third communication

channel between the first socket and the second client device, the first digital content corresponding to the first event information so that the first digital content received at the first client device and the second client device is synchronized and client-by-client latency between the first client device and second client device to render the first event information is thereby mitigated or significantly reduced;

[1.10] render, on the at least one second display of the second client device, at least some of the first event information as at least one second user-interactive feature; and

[1.11] obtain access to the first additional information or second additional information relating to the live event and/or redirect to the first web site, the first app, a second web site or a second app when a second user selects at least a portion of the rendered at least one second user-interactive feature.

Ex. 1012, 66:44–67:39 (Petitioner’s identifiers added in brackets).

*E. Prior Art*

Petitioner relies on the following prior art:

U.S. Patent Application Publication No. 2015/0163379 A1, filed Dec. 11, 2013, published June 11, 2015 (Ex. 1015, “Herzog”);

U.S. Patent Application Publication No. 2014/0229992 A1, filed Apr. 22, 2014, published Aug. 14, 2014 (Ex. 1016, “Ellis”);

U.S. Patent Application Publication No. 2016/0036910 A1, filed Aug. 4, 2014, published Feb. 4, 2016 (Ex. 1017, “Spivey”); and

U.S. Patent Application Publication No. 2018/0367820  
A1, PCT filed Dec. 8, 2015, published Dec. 20, 2018 (Ex. 1050,  
“Abulikemu”).

*F. The Asserted Grounds*

Petitioner challenges claims 1–7 and 24–34 of the ’088 patent based on the following grounds (Pet. 8):

| <b>Claim(s) Challenged</b> | <b>35 U.S.C. §</b> | <b>Reference(s)/Basis</b>    |
|----------------------------|--------------------|------------------------------|
| 1, 4–7                     | 103 <sup>2</sup>   | Ellis, Spivey                |
| 2, 3, 24–34                | 103                | Ellis, Spivey, Abulikemu     |
| 1, 4–7                     | 103                | Herzog, Spivey               |
| 2, 3, 24–34                | 103                | Herzog, Spivey,<br>Abulikemu |

## II. ANALYSIS

We now consider Petitioner’s asserted grounds and Patent Owner’s arguments to determine whether Petitioner has met the “reasonable likelihood” standard for institution under 35 U.S.C. § 314(a).

*A. Legal Standards*

A claim is unpatentable under 35 U.S.C. § 103 if the differences between the claimed invention and the prior art are such that the claimed invention, as a whole, would have been obvious before the effective filing

---

<sup>2</sup> The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C. §§ 102 and 103. Because the ’088 patent’s earliest claim of priority is made to an application filed after March 16, 2013 (the effective date of the relevant amendments), the AIA versions of §§ 102 and 103 apply. *See* Ex. 1012, codes (60), (63).

date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) where in evidence, so-called secondary considerations. *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). We also recognize that prior art references must be “considered together with the knowledge of one of ordinary skill in the pertinent art.” *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994) (citing *In re Samour*, 571 F.2d 559, 562 (CCPA 1978)).

*B. Level of Ordinary Skill in the Art*

Citing testimony from Dr. Wicker, Petitioner contends a person of ordinary skill in the art (“POSA”) “would have had at least a bachelor’s degree, or equivalent, in electrical engineering, computer engineering, computer science, or a related field or an equivalent number of years of working experience, and one to two years of experience in networking environments, including at least some experience with live-streaming network architecture.” Pet. 16 (citing Ex. 1001 ¶¶ 78–82). Patent Owner contends that an ordinarily skilled artisan “would have [had] a bachelor’s degree in electrical engineering, computer engineering, computer science, or equivalent degree and, in addition, approximately two years of work experience with Internet video streaming, Internet communication, and related protocols.” Prelim. Resp. 21 (citing Ex. 2001 § IV.C).

The differences between the parties' definitions are minor, as recognized by Dr. Rubin (*see* Ex. 2001 ¶ 104), and we do not discern any meaningful differences based on the preliminary record. Accordingly, for purposes of this Decision, we adopt Patent Owner's definition of the level of ordinary skill in the art. On the present record, we are satisfied that this definition of the level of skill is consistent with the teachings of the '088 patent and the asserted prior art. Notwithstanding, we would reach the same determination under Petitioner's formulation of the level of skill.

*C. Claim Interpretation*

In an *inter partes* review, we construe each claim using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. [§] 282(b), including construing the claim in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.

37 C.F.R. § 42.100(b). Accordingly, our claim construction standard is the same as that of a district court. *See id.* Under the standard applied by district courts, claim terms are generally given their plain and ordinary meaning, as would have been understood by a person of ordinary skill in the art at the time of the invention and in the context of the entire patent disclosure. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). "There are only two exceptions to this general rule: 1) when a patentee sets out a definition and acts as his own lexicographer, or 2) when the patentee disavows the full scope of a claim term either in the specification or during prosecution." *Thorner v. Sony Comput. Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012).

Petitioner contends that all claim terms should be given their plain and ordinary meaning. Pet. 8. Petitioner also argues that an ordinarily skilled artisan would have known that a “socket” is “a uniquely addressable communication endpoint on a server where first event information is provided to a VCD [viewer client device].” *Id.* at 34 (citing Ex. 1001 ¶ 163). Thus, Petitioner argues that a “first event socket corresponding to the first event information” is “a socket where information about one sporting event is provided to VCDs.” *Id.* Patent Owner states that “[e]xcept for the ‘socket’ term for which Patent Owner applies Petitioner’s construction . . . for purposes of [its] preliminary response, Patent Owner agrees that no terms require construction and construes all other terms consistent with their plain and ordinary meaning.” Prelim. Resp. 20–21.

For purposes of this Decision, we determine that no aspects of the challenged claims require explicit construction. *See, e.g., Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

*D. Obviousness Ground Based on Ellis and Spivey*

Petitioner contends that claims 1 and 4–7 would have been obvious over the combination of Ellis and Spivey. Pet. 21–45. Patent Owner disputes Petitioner’s contentions. Prelim. Resp. 33–61.

1. *Ellis*

Ellis is a U.S. patent application publication titled “Systems and Methods for Providing Enhanced Sports Watching Media Guidance” that discloses systems and methods for accessing and displaying enhanced sports-related media content. Ex. 1016, codes (54), (57). Figure 1 of Ellis is reproduced below.

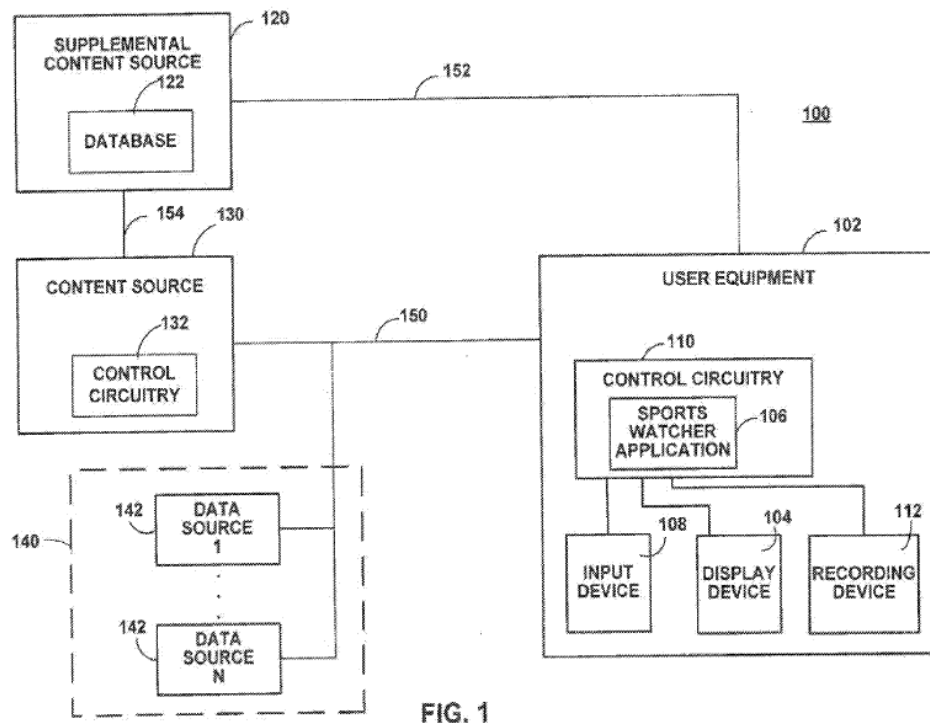


Figure 1 is a block diagram illustrating interactive media system 100. *Id.* ¶¶ 15, 39. Interactive media system 100 includes user equipment 102, content source 130, supplemental content source 120, and data sources 140. *Id.* ¶ 39. User equipment device 102 receives media content, such as video broadcast programming, from content source 130 via communication path 150. *Id.* ¶¶ 39–40, Fig. 1. User equipment device 102 also receives content, such as real-time sports scores and game summary information, from supplemental content source 120 via communication path 152. *Id.*

¶¶ 39, 41, Fig. 1. Data sources 140 provide data for applications running on user equipment 102. *Id.* ¶ 46.

## 2. *Spivey*

Spivey is a U.S. patent application publication titled “Techniques to Broadcast Live Event Data in Real-Time” that discloses a system for broadcasting live event data in real-time. Ex. 1017, codes (54), (57). According to Spivey, its techniques “increase the speed at which live event data (e.g. sports scores and breaking news), are broadcast to mobile devices by using topic queues and open duplex communication connections, among other innovative techniques.” *Id.* ¶ 27. Figure 1 of Spivey is reproduced below.

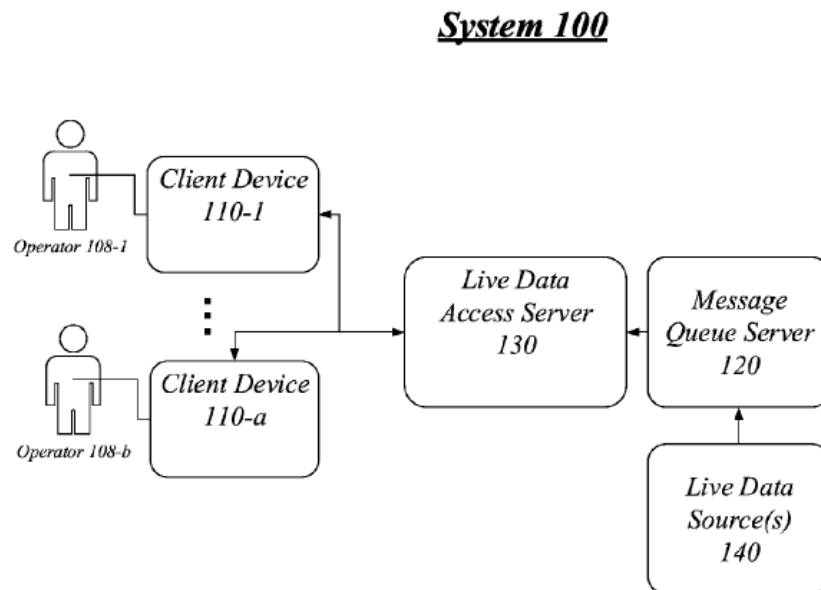


**FIG. 1**

Figure 1 shows system 100 for broadcasting live event data including client devices 110-1 through 110-a, message queue server 120, and live data access server 130 coupled via one or more networks. *Id.* ¶¶ 3, 34. Message queue

server 120 receives live data from live data source(s) 140 and processes the live data so that it can be provided to client devices 110-1 through 110-a. *Id.* ¶¶ 35–37. Live data access server 130 interfaces between message queue server 120 and client devices 110-1 and 110-a. *Id.* ¶ 38.

Figure 4 of Spivey is reproduced below.

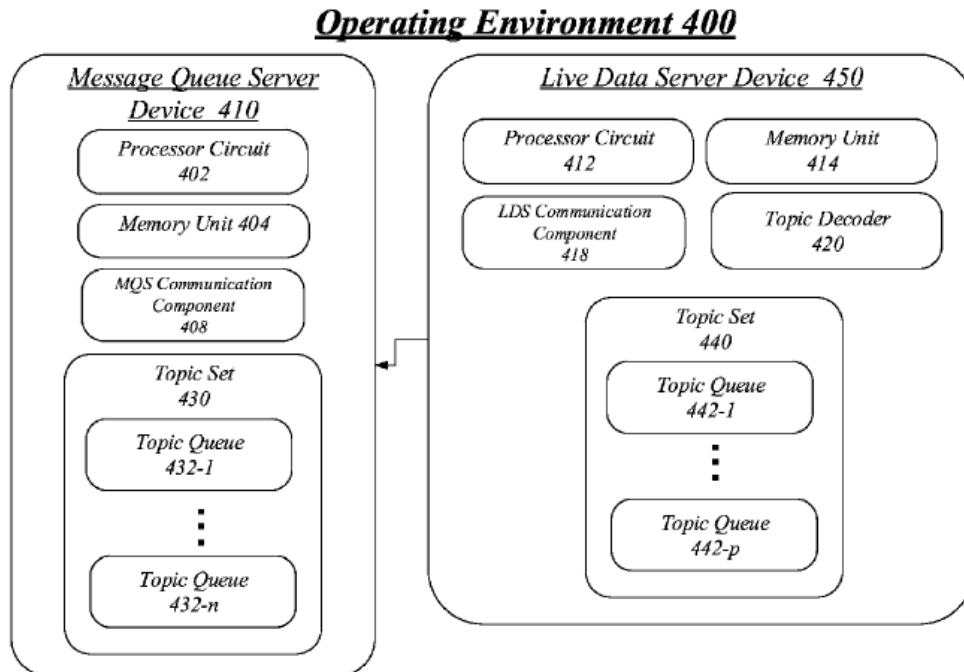


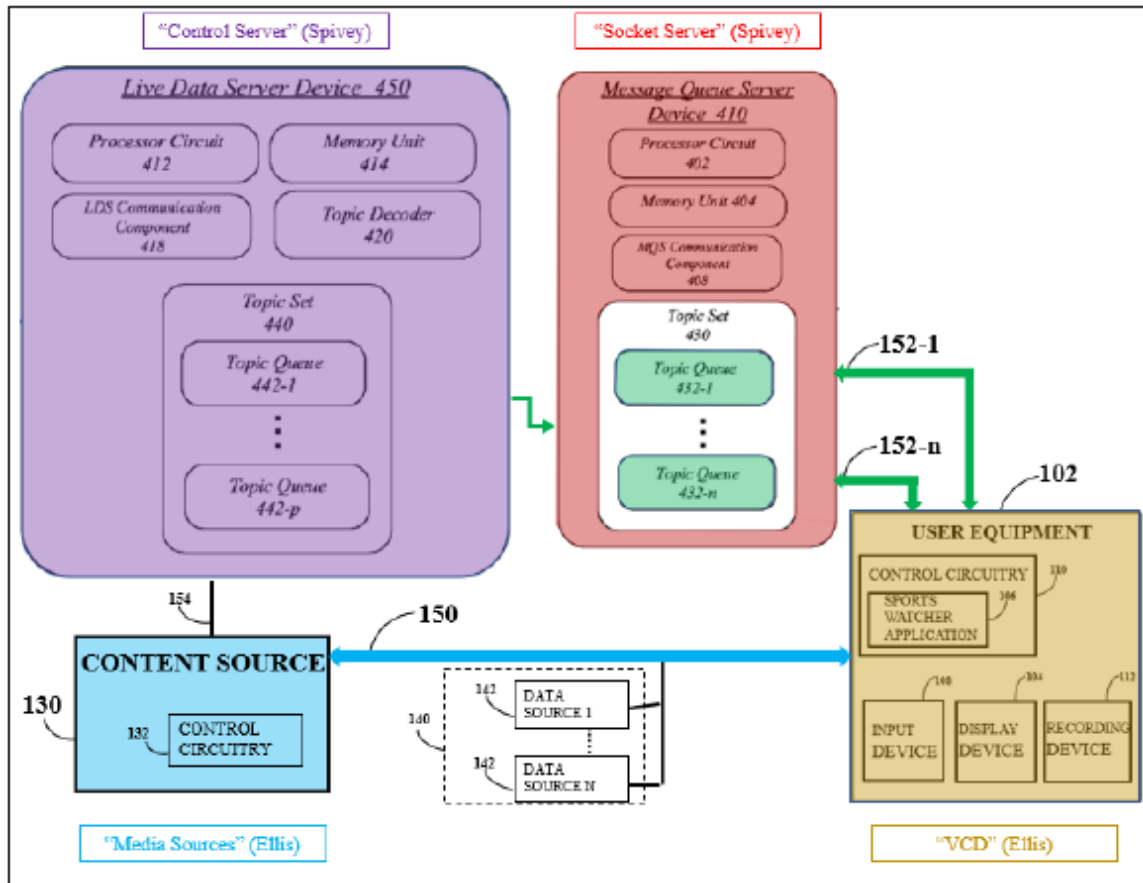
**FIG. 4**

Figure 4 shows operating environment 400, in which message queue server 120 is implemented as message queue server device 410 and live data server device 450. Ex. 1017 ¶¶ 6, 53. Message queue server device 410 includes communication component 408, topic set 430, and topic queues 432. *Id.* ¶ 54. Live data server device 450 includes live data server communication component 418 that allows live data server device 450 to receive live data and transmit it to message queue server device 410. *Id.* ¶ 55. Live data server device 450 also includes topic decoder 420, topic set 440, and topic queues 442. *Id.* ¶ 56.

3. *Claim 1*

a. Petitioner's Contentions

Petitioner notes “Ellis’s two-part delivery method/system comprises transmitting a video stream originated by a content source (*i.e.*, ‘media source’) over communication path 150 and transmitting a data stream originated by a SCS [supplemental content source] over a separate communication path 152.” Pet. 21–22 (citing Ex. 1016, Fig. 1). Petitioner acknowledges, however, that “Ellis does not disclose transmitting the supplemental content data to user equipment via a socket server.” *Id.* at 22. Thus, Petitioner contends that an ordinarily skilled artisan “would have found it obvious to implement Ellis’s SCS as a websocket server, as taught by Spivey, to achieve full-duplex communications between a client and a remote host with low latency.” *Id.* (citing Ex. 1001 ¶¶ 117–119). According to Petitioner, an ordinarily skilled artisan “would have appreciated Spivey’s teaching that network components—specifically the Live Data Server Device (LDSD) (*i.e.*, ‘control server’) and Message Queue Server Device (MQSD) (*i.e.*, ‘socket server’)—are useful in a data delivery system because they help dramatically reduce latency.” *Id.* (citing Ex. 1001 ¶ 120; Ex. 1017 ¶¶ 28, 43, 96). Thus, Petitioner proposes implementing Ellis’s SCS using Spivey’s LDSD (*i.e.*, “control server”) and adding Spivey’s MQSD (*i.e.*, “socket server”), as is shown in a first illustration from the Petition:



Pet. 23–24. In this first illustration from the Petition, Petitioner has modified Ellis’s Figure 1 such that Spivey’s live data server device 450 and message queue server device 410 from Spivey’s Figure 4 replace supplemental content source 120 in Ellis’s Figure 1. *Id.* (citing Ex. 1001 ¶ 122; Ex. 1016 ¶¶ 39, 41, Fig. 1; Ex. 1017, Fig. 4). According to Petitioner, the modification “would maintain the video content delivery system and upgrade the supplemental content data delivery system by including a socket server to provide real-time data with reduced latency.” *Id.* at 24 (citing Ex. 1001 ¶ 122).

Petitioner contends that an ordinarily skilled artisan would have combined Ellis and Spivey because they both are related to “content delivery for real-time events” and both “solve the same or similar problems, namely,

providing video and/or event data to multiple users over the Internet quickly.” Pet. 24–25 (citing Ex. 1001 ¶¶ 123–124; Ex. 1016, code (57), ¶ 156; Ex. 1017, code (57)). Petitioner further contends that “[i]mplementing certain portions of Spivey’s system into Ellis’s system would have been obvious because doing so would have required only the simple substitution of known elements for another to obtain predictable results.” *Id.* at 25 (citing Ex. 1001 ¶ 125).

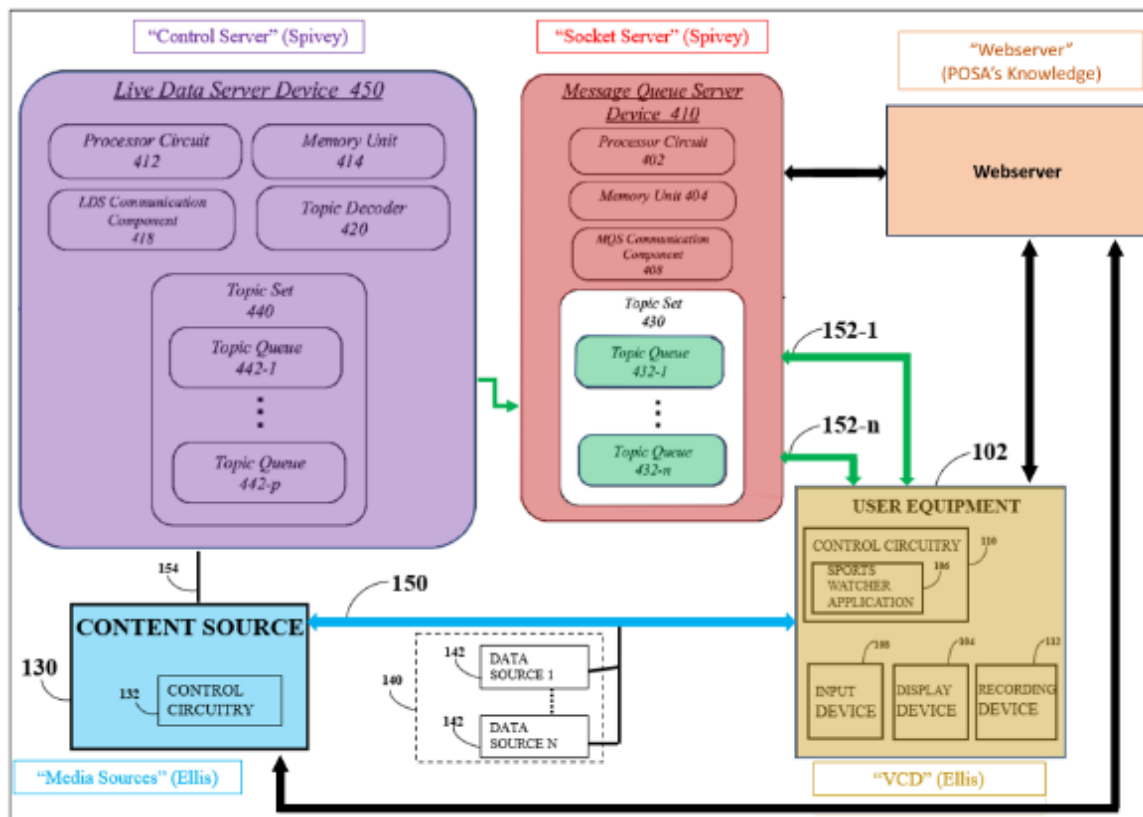
Petitioner proposes a further modification of its proposed combination of Ellis and Spivey “to the extent the combination does not disclose a webserver implemented specifically to facilitate communication between a client device and socket server.”<sup>3</sup> Pet. 26. Petitioner notes that Ellis and Spivey each generally disclose a webserver. *Id.* (citing Ex. 1016 ¶ 40; Ex. 1017 ¶ 35). Petitioner contends that an ordinarily skilled artisan “would have understood that webserver were well-known components in streaming systems that were useful for facilitating communication between client devices and socket servers, and client devices and media sources.” *Id.* (citing Ex. 1001 ¶¶ 49–53, 127–134). For example, Petitioner cites Herzog’s application server as such a webserver.<sup>4</sup> *See id.* at 27 (citing Ex. 1015 ¶ 26). Petitioner contends that an ordinarily skilled artisan “would

---

<sup>3</sup> Even though Petitioner’s phrasing suggests that Ellis or Spivey might teach such a facilitator-type webserver, Petitioner puts forth no contentions in that regard aside from references to generic webserver in Ellis and Spivey. As such, Petitioner’s obviousness case necessarily relies on the knowledge of a person of ordinary skill in the art for implementing a facilitator-type webserver, as is discussed directly below.

<sup>4</sup> Despite making specific references to Herzog in its analysis, Petitioner does not include Herzog in its proposed obviousness combination for this ground. We include a discussion of Herzog below. *See infra* § II.F.1.

have understood that using an application server such as Herzog's was advantageous because its ancillary functions reduce latency by 'satisf[ying] time synchronization requirements between a client application residing in mobile device 45 and the solution integrator 44,' which includes an origin server (*i.e.*, socket server)." *Id.* (alteration by Petitioner) (quoting Ex. 1015 ¶ 51) (citing Ex. 1001 ¶ 132). Based on the potential benefits of synchronization and latency reduction, Petitioner contends that an ordinarily skilled artisan "would have been motivated to integrate a webserver such as Herzog's application server into the Ellis/Spivey combination by placing it in-between Ellis's client device, Ellis's media sources, and Spivey's MQSD (*i.e.*, socket server)." *Id.* at 27–28 (citing Ex. 1001 ¶ 132; Ex. 1016 ¶¶ 39, 41, Fig. 1; Ex. 1017, Fig. 4). Petitioner provides a second illustration of its proposed modification:



*Id.* In this second illustration from the Petition, Petitioner has further modified the first illustration above to include a webserver based on “POSA’s Knowledge” between Ellis’s user equipment 102, Ellis’s content source 130, and Spivey’s MQSD 410. *Id.*

Petitioner contends that “[p]lacing a webserver in Ellis’s system . . . would enable the webserver to facilitate communication between the client device and the media sources/socket server by receiving a request and in turn establishing a connection between the client device and media sources/socket server to allow transmission of video/event data.” Pet. 28 (citing Ex. 1001 ¶ 132). Petitioner explains that, “by integrating a webserver, the new system would benefit from ‘synchroniz[ing] two different types of data, for example, video/audio data and meta-data . . . so that they display appropriately on a mobile device in correct time synchronization.’” *Id.* at 28–29 (alterations by Petitioner) (quoting Ex. 1015 ¶ 64) (citing Ex. 1001 ¶ 132). Petitioner contends that an ordinarily skilled artisan would have expected success integrating a webserver into Ellis and Spivey’s data delivery system based on Spivey’s statement that the MQS may comprise a webserver and given that “Spivey’s robust framework could easily be integrated with a webserver to facilitate client device communication.” *Id.* at 29 (citing Ex. 1001 ¶¶ 133–134; Ex. 1017 ¶ 35).

b. Patent Owner’s Arguments

Patent Owner argues that “Petitioner’s proposed *orchestrator-type* webserver architecture (in which the webserver facilitates connections among devices and servers) is a radical deviation from the *relay-type* architecture (in which data flows through servers in series) of Spivey.”

Prelim. Resp. 48. In particular, Patent Owner argues that Petitioner’s proposed combination “inappropriately relies on a ‘webserver’ from ‘POSA’s Knowledge’ to ‘facilitate communication between a client device and a socket server’ without ever acknowledging that an additional ‘orchestrator-type’ webserver would contradict the express teachings of Spivey.” *Id.* at 52 (citing Pet. 26–28; Ex. 1017 ¶ 35, Fig. 1; Ex. 2001 ¶¶ 217–229, 231, 246–260). According to Patent Owner, Petitioner’s proposed “placement of a webserver [is] absent from the express teachings of the art,” and “it would contradict, or at least be superfluous to, the *data-relay* concepts discussed in Spivey.” *Id.* at 53.

Patent Owner explains that Spivey’s MQSD 410 and LDS 450 “function as a form of, and in cooperation with other Spivey components, as a data relay.” Prelim. Resp. 53–54 (citing Ex. 2001 ¶¶ 188, 269–270). The purpose of Spivey’s architecture, according to Patent Owner, is “the immediate ‘push’ provision of data.” *Id.* at 54 (citing Ex. 1017 ¶¶ 65–69, Fig. 6; Ex. 2001 ¶¶ 250–252). Patent Owner contrasts Spivey’s purpose with Petitioner’s proposal of “a webserver that functions not as a *data relay*, but as a *data orchestrator*, in which the webserver is connected to each of the MQSD, User Equipment, and Content Source . . . , all to somehow facilitate video and data content provision to the user.” *Id.* (citing Pet. 27–28). Patent Owner argues that an ordinarily skilled artisan “would not have understood the *orchestrator-type* webserver shown by Petitioner to be a germane or even helpful inclusion with Spivey because adding another component to connect the client to the data would only add unnecessary complexity and be counter-productive to Spivey’s latency reduction aim.” *Id.* (citing Ex. 2001 ¶ 280).

Patent Owner also disputes that latency considerations would have motivated an ordinarily skilled artisan to include an intermediary webserver in the Ellis–Spivey combination. Patent Owner argues that “inserting an additional webserver . . . between various components . . . is both unnecessary and likely to cause delays.” Prelim. Resp. 56 (citing Pet. 28; Ex. 2001 ¶ 276). Patent Owner notes “[t]he total lack of teaching in Ellis and/or Spivey concerning how to transform its relay data shipping approach to that of an orchestrator facilitator, much less how to synthesize both data relay and data synthesizer approaches.” *Id.* at 56–57 (citing Ex. 2001 ¶ 280). Patent Owner calls the added orchestrator webserver “an extra, redundant component.” *Id.* at 57 (citing Ex. 2001 ¶ 280). Patent Owner also argues that “Petitioner’s modifications to Spivey’s teachings radically alter the solution Spivey purportedly taught for reducing latency” such that an ordinarily skilled artisan “would not have [had] a reasonable expectation that any beneficial reductions in latency would be achieved in the resulting combination.” *Id.* (citing Ex. 2001 ¶¶ 303–316).

c. Analysis

We are not persuaded by Petitioner’s rationale for adding a facilitator-type webserver to the Ellis–Spivey combination based on “POSA’s Knowledge.” First, Petitioner’s combination of Spivey with Ellis is already allegedly based on improving latency issues via the incorporation of Spivey’s LDS and MQSD in Ellis’s system. *See* Pet. 22–24. Petitioner touts that this modification would result in reduced latency to a time period “at least two orders of magnitude shorter than conventional time periods of legacy devices.” *Id.* at 23 (citing Ex. 1017 ¶ 96). But the Petition does not

establish whether this latency improvement would or could be maintained when adding a separate webserver, as it has proposed. And Dr. Rubin testifies that the inclusion of an additional webserver—an additional component—is likely to create latency insofar as it must receive, process, and/or handle data. Ex. 2001 ¶ 305. We are persuaded by Dr. Rubin’s testimony, and we find that adding a webserver to Petitioner’s existing Ellis–Spivey combination tends to undermine Petitioner’s foundational rationale for combining these references, which is the reduction of latency. *See* Pet. 23.

Second, we agree with Patent Owner (Prelim. Resp. 56) that the addition of a facilitator-type webserver lacks any basis in the disclosures of Ellis and Spivey. Although Spivey mentions the use of a webserver, it is in the context of the message queue server. Ex. 1017 ¶ 35. Ellis mentions the use of a webserver as a content source. Ex. 1016 ¶ 40. Neither reference mentions using a webserver for orchestrating connections between components in the system via transmitted instructions as recited in the challenged claims. Based on the present record, we are not persuaded that Ellis’s and Spivey’s mentions of webserver in other contexts would have motivated an ordinarily skilled artisan to interpose a webserver between Ellis’s client device, Ellis’s media sources, and Spivey’s MQSD, as proposed by Petitioner. Nor would the webserver disclosures in Ellis and Spivey have led organically to the facilitator role that Petitioner ascribes to its added webserver element. Further, much of Petitioner’s analysis is based on Herzog’s application server (*see* Pet. 27), but Herzog is not an asserted reference in this ground. We find Petitioner’s reliance on the so-called “ancillary functions” of Herzog’s application server (*see* Ex. 1015 ¶ 26) for

teaching a webserver that facilitates communications goes beyond mere background knowledge in the art. And, even if Herzog's teachings were a part of this ground, we find below that Herzog's disclosure of an application server with "ancillary functions" does not teach the particular webserver recited in claim 1. *See infra* § II.F.2.c.

Third, we agree with Patent Owner (Prelim. Resp. 49) that Petitioner does not explain sufficiently why an ordinarily skilled artisan would have added a facilitator-type webserver to the Ellis–Spivey combination when neither reference teaches or suggests a webserver for facilitating communication between a client and a socket server. Dr. Wicker's supporting testimony stresses that "webservers were well-known components in streaming systems that were useful for facilitating communication between client devices and socket servers, and client devices and media sources." Ex. 1001 ¶¶ 128–132. But "obviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention." *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015). Petitioner fails to provide any persuasive reason with a rational underpinning why an ordinarily skilled artisan would have been motivated to add a webserver to the existing Ellis–Spivey combination.

In addition, Patent Owner shows potential redundancies and inconsistencies arising from adding a webserver to the Ellis–Spivey combination. For example, Petitioner already modifies Ellis's system with Spivey's MQSD 410 and LDSD 450 to reduce latency by pushing data via a websocket connection. *See* Pet. 22–24. As mentioned above, adding a further interconnect in the form of Petitioner's proposed webserver would

potentially slow the provision of data (*see* Ex. 2001 ¶ 280), which undermines Petitioner’s assertion about improving latency issues with the added webserver (*see* Pet. 28). Petitioner also does not explain how the Ellis–Spivey data provision mechanisms would work with an added webserver. *See* Ex. 2001 ¶¶ 268, 272–274, 279–280. Although Petitioner contends that “latency issues” could be solved by the “webserver receiving the request from the client device and sending back synchronized, time-stamped meta-data via the MQSD” (Pet. 28 (citing Ex. 1001 ¶ 132; Ex. 1015 ¶ 56)), Petitioner ascribes the time-stamping function to the webserver itself. *See id.* at 27 (citing Ex. 1015 ¶ 58). Petitioner makes no attempt to establish how the webserver would accomplish such time-stamping of meta-data when the meta-data communication path 152 does not flow through the webserver in Petitioner’s proposed combination. *See id.* at 28 (second illustration as reproduced above).

In light of these deficiencies, we find that Petitioner has not put forth a sufficient rationale for including a webserver in its proposed combination of Ellis and Spivey. Based on the present record, we determine that Petitioner has not established a reasonable likelihood that it would prevail in showing that the invention of claim 1 as a whole would have been obvious over the combination of Ellis and Spivey.

#### 4. *Claims 4–7*

Claims 4–7 depend directly or indirectly from claim 1, and Petitioner relies on the same faulty rationale for the combination discussed above. *See* Pet. 21–29, 42–45. For the same reasons discussed above, Petitioner has not established a reasonable likelihood that it would prevail in showing that the

inventions of claims 4–7 as a whole would have been obvious over the combination of Ellis and Spivey.

*E. Obviousness Ground Based on Ellis, Spivey, and Abulikemu*

Petitioner contends that claims 2, 3, and 24–34 would have been obvious over the combination of Ellis, Spivey, and Abulikemu. Pet. 45–56. Patent Owner disputes Petitioner’s contentions. Prelim. Resp. 61.

*1. Abulikemu*

Abulikemu is a U.S. patent application publication titled “A Crowd-Sourced Broadcasting System and Method” that discloses “a broadcasting system and method that allows incorporation of user-generated content such as user videos of a live event and user commentary (audio and/or video) about the live event.” Ex. 1050, codes (54), (57).

*2. Claims 2, 3, and 24–34*

Petitioner’s analysis for claims 2, 3, and 24–34 incorporates the same faulty rationale for combining Spivey and Ellis with a webserver as discussed above. Pet. 46; *see also supra* § II.D.3.a. For the same reasons discussed above, Petitioner has not established a reasonable likelihood that it would prevail in showing that the inventions of claims 2, 3, and 24–34 as a whole would have been obvious over the combination of Ellis, Spivey, and Abulikemu. *See supra* § II.D.3.c.

### F. Obviousness Ground Based on Herzog and Spivey

Petitioner contends that claims 1 and 4–7 would have been obvious over the combination of Herzog and Spivey. Pet. 56–80. Patent Owner disputes Petitioner’s contentions. Prelim. Resp. 61–72.

1. Herzog

Herzog is a U.S. patent application publication titled “Time Synchronization of Video and Data Inside a Mobile Device” that discloses a mobile device including a processor configured to receive and format live video data, audio data, and meta-data for display on the mobile device, and synchronize selected meta-data with the video and audio for simultaneous display. Ex. 1015, codes (54), (57). Figure 4 of Herzog is reproduced below.

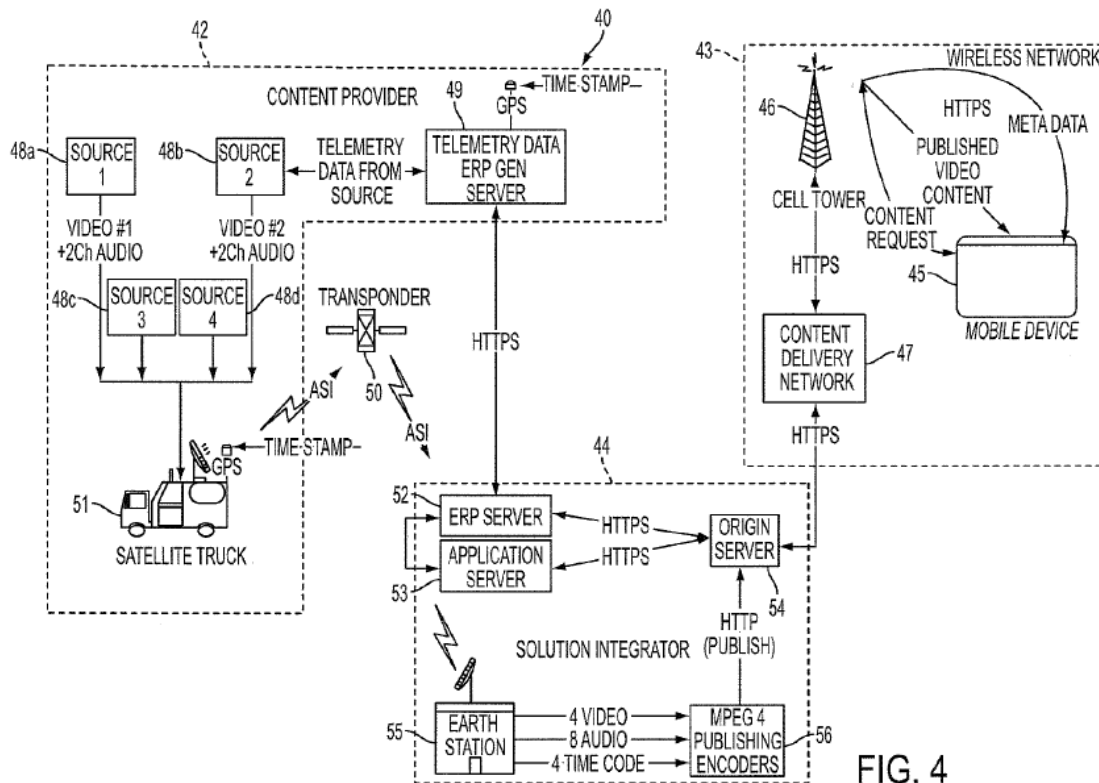


FIG. 4

Figure 4 shows system 40 that provides communications to mobile device 45 in wireless network 43 via content delivery network 47. Ex. 1015 ¶¶ 9, 43. System 40 includes content provider 42, which provides video and audio data of an event occurring in real time, along with meta-data. *Id.* ¶ 45. Content provider 42 provides video/audio streams from imaging sources 48a–48d. *Id.* ¶ 46. Content provider 42 also includes an Enhanced Result Protocol (ERP) generator server 49 configured to receive meta-data from imaging sources 48a–48d. *Id.* ¶ 47. ERP generator server 49 extracts meta-data parameters that may be of interest to a user, formats the extracted meta-data into an HTTPS protocol, and transmits the formatted meta-data to solution integrator 44. *Id.* Solution integrator 44 transmits the video/audio stream and meta-data to content delivery network 47 for delivery to mobile device 45. *Id.* ¶¶ 48–51.

2. *Claim 1*

a. Petitioner's Contentions

Claim 1 recites, *inter alia*,

a webserver configured to:

transmit first instructions to a first client device that includes at least one first display, the first instructions transmitted by the webserver enabling the at least one first display of the first client device to render a first video relating to the live event and render first event information relating to the live event.

Ex. 1012, 66:49–55. The instructions cause the first client device to (1) connect to a media server and receive an audio/video feed of the live event; (2) connect to a socket server to receive digital content corresponding to the first event information; and (3) render on the client device's display

some of the first event information overlaid on or adjacent to the video. *Id.* at 66:55–67:5.

For the recited “webserver,” Petitioner cites Herzog’s application server 53. Pet. 63–64 (quoting Ex. 1015 ¶ 58). According to Petitioner, application server 53 is “configured to receive the request from the client application software and begin sending the meta-data with the corresponding .JSON [Java Script Object Notation] time stamp via the ERP [Enhanced Result Protocol] server 52 in the solution integrator 44.” *Id.* (quoting Ex. 1015 ¶ 58). Petitioner explains that “[t]he application server facilitates streaming between the origin server and VCD [viewer client device] by receiving a ‘request with the time code call out’ from the VCD, then prompting the origin server to transmit a meta-data stream to the VCDs.” *Id.* at 64 (quoting Ex. 1015 ¶ 51). Regarding the recitation that the webserver “transmit[s] first instructions to a first client device,” Petitioner contends that application server 54 “transmits instructions to VCDs to cause the VCDs to request a copy of audio/video feeds of the live event.” *Id.* at 65 (citing Ex. 1015 ¶¶ 28, 51, 84, 86, 88, claim 11). Petitioner further contends that an ordinarily skilled artisan “would have understood that Herzog’s application server transmits instructions to VCDs to establish a connection between its VCDs and media sources.” *Id.* (citing Ex. 1001 ¶¶ 290–292).

b. Patent Owner’s Arguments

Patent Owner argues that Herzog’s “application server 53 bears little resemblance to the claimed webserver because it uses the origin server 54 (and an array of other intermediate components) to reach the mobile device.” Prelim. Resp. 64 (citing Ex. 2001 ¶¶ 332–339). According to Patent Owner,

“the application server serves no role in facilitating a connection among, e.g., client devices and socket servers, and client devices and media sources.” *Id.* at 62 (internal quotation omitted) (citing Pet. 26; Ex. 2001 ¶¶ 330–340). Thus, Patent Owner disputes that Herzog’s application server can “transmit first instructions to a first client device . . . enabling the at least one first display of the first client device to render a first video relating to the live event and render first event information relating to the live event.” *Id.* at 64 (emphasis omitted, alteration in original). Patent Owner likewise disputes that Herzog’s application server can “facilitate a client device’s ‘connect[ion] to the first media server endpoint’ and/or ‘connect[ion] to a first socket of a socket server.’” *Id.* (alterations by Patent Owner) (emphasis omitted).

c. Analysis

We agree with Patent Owner that Petitioner does not establish how Herzog’s application server acts as a webserver that transmits instructions to clients, or how the application server enables clients to make connections, receive audio/video feed and event information, and then render them on a display, as is recited in claim 1. We have reviewed Petitioner’s citations supporting its assertion that “Herzog’s application server (*i.e.*, ‘webserver’) transmits instructions to VCDs to cause the VCDs to request a copy of audio/video feeds of the live event.” Pet. 65 (citing Ex. 1015 ¶¶ 28, 51, 84, 86, 88, claim 11). We find that none of the cited passages supports the premise of Petitioner’s assertion. Rather than transmitting instructions to a client device to enable display of video and event information, Herzog’s application server *receives* requests for meta-data *from the client* and then

sends the meta-data with a time stamp. Ex. 1015 ¶¶ 51, 58. Further, Herzog’s general passages about computing technology (*see, e.g., id.* ¶¶ 84, 86, 88) do not teach the specific transmission of instructions by a webserver as recited in claim 1. Petitioner also has cited Herzog’s teaching of “execution of programming in the mobile stations” to implement synchronization (*id.* ¶ 28), but this does not establish that Herzog’s application server is transmitting instructions related to that programming.<sup>5</sup> Finally, Herzog’s claim 11 is directed to the functions of a “client application,” and it does not mention anything about Herzog’s application server or instructions that might have been sent by the application server. *Id.* at claim 11.

Petitioner’s contentions based on the knowledge of a person of ordinary skill in the art fare no better. *See* Pet. 65 (citing Ex. 1001 ¶¶ 290–292). Petitioner’s analysis (*see id.* at 65–67), and Dr. Wicker’s supporting testimony (*see* Ex. 1001 ¶¶ 291–292), focus on how Herzog’s client devices obtain and display streaming content. Pet. 65–67 (citing Ex. 1015 ¶¶ 3, 12, 16, Figs. 4, 6, 7); Ex. 1001 ¶¶ 291–292 (citing same). They do not indicate how or why an ordinarily skilled artisan would have regarded Herzog’s application server as a webserver that transmits instructions enabling clients to display video and event information. In the absence of any persuasive

---

<sup>5</sup> In a different context, Petitioner also cites Herzog’s teaching of the application server providing “ancillary functions in support of the communication services and/or application services.” Pet. 27 (quoting Ex. 1015 ¶ 26). We likewise find that this disclosure does not establish that the application server transmits instructions enabling the actions recited in claim 1.

reasoning tied to Herzog's teachings, we find Petitioner's contentions unavailing.

For these reasons, we are not persuaded that the combination of Herzog and Spivey teaches a webserver configured to transmit instructions to a client device, thus causing the client device perform various actions that enable the display of live event video and event information, as is recited in claim 1. Based on the present record, we determine that Petitioner has not established a reasonable likelihood that it would prevail in showing that the invention of claim 1 as a whole would have been obvious over the combination of Herzog and Spivey.

3. *Claims 4–7*

Claims 4–7 depend directly or indirectly from claim 1, and Petitioner relies on the same faulty analysis of the recited “webserver” in claim 1. *See* Pet. 79–80. For the same reasons discussed above, Petitioner has not established a reasonable likelihood that it would prevail in showing that the inventions of claims 4–7 as a whole would have been obvious over the combination of Herzog and Spivey.

G. *Obviousness Ground Based on Herzog, Spivey, and Abulikemu*

Petitioner contends that claims 2, 3, and 24–34 would have been obvious over the combination of Herzog, Spivey, and Abulikemu. Pet. 80–87. Patent Owner disputes Petitioner's contentions. Prelim. Resp. 72.

1. *Claims 2 and 3*

Claims 2 and 3 depend directly or indirectly from claim 1, and Petitioner relies on the same faulty analysis of the recited “webserver” in claim 1 from the Herzog–Spivey ground. *See* Pet. 81–85. For the same reasons discussed above, Petitioner has not established a reasonable likelihood that it would prevail in showing that the inventions of claims 2 and 3 as a whole would have been obvious over the combination of Herzog, Spivey, and Abulikemu.

2. *Claims 24–34*

Claim 24 is an independent claim with recitations related to a “webserver” and its instructions that are similar in scope to claim 1. *Compare* Ex. 1012, 71:43–63, *with id.* at 66:49–67. Petitioner relies on the same faulty analysis from claim 1 of the Herzog–Spivey ground for these recitations. *See* Pet. 85–86; *see also supra* § II.F.2.a. Thus, for the same reasons discussed above, Petitioner has not established a reasonable likelihood that it would prevail in showing that the invention of claim 24 as a whole would have been obvious over the combination of Herzog, Spivey, and Abulikemu. *See supra* § II.F.2.c.

Claims 25–34 depend directly or indirectly from claim 24, and Petitioner relies on the same faulty analysis of the recited “webserver” in claim 1 from the Herzog–Spivey ground. *See* Pet. 86–87. For the same reasons discussed above, Petitioner has not established a reasonable likelihood that it would prevail in showing that the inventions of claims 25–34 as a whole would have been obvious over the combination of Herzog, Spivey, and Abulikemu.

### III. CONCLUSION

For the reasons discussed above, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in the Petition. Therefore, we do not institute an *inter partes* review on the asserted grounds as to any of the challenged claims.

### IV. ORDER

Accordingly, it is

ORDERED that the Petition is denied as to all challenged claims, and no *inter partes* review is instituted.

IPR2025-00251  
Patent 11,871,088 B2

For PETITIONER:

W. Baker  
Michael Dinnella  
KIRKLAND & ELLIS LLP  
todd.baker@kirkland.com  
mtd5145@gmail.com

For PATENT OWNER:

Brian Eutermoser  
Mikaela Stone  
KING & SPALDING LLP  
beutermoser@kslaw.com  
mikaela.stone@kslaw.com