

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,

Petitioner,

v.

BRODTI INC.,

Patent Owner.

Case No. IPR2025-00472

U.S. Patent No. 11,416,898

PATENT OWNER'S SUR-REPLY

TABLE OF CONTENTS

I.	PETITIONER FAILS TO ESTABLISH THAT ANY CHALLENGED CLAIMS ARE UNPATENTABLE	1
A.	Claim Elements [c] and [d] Are Not Taught or Suggested by the Ground References	1
1.	Claim Language	1
2.	<i>Nicholas</i> Fails to Teach or Suggest These Elements	3
3.	Petitioner’s Ground Fails If Its Construction of “Website” Is Used for Elements [c]/[d]	9
4.	Conclusion	9
B.	Claim Element [f] Is Not Taught or Suggested by the Ground References	9
1.	Claim Language	9
a.	“Website”	9
b.	“Web Property Content”	12
a.	“Placing The Advertising Material Within Web Property Content”	17
2.	<i>Nicholas</i> Fails to Teach or Suggest [Placing the Advertising Material Within Web Property Content of] “the at Least One Website”	18
3.	<i>Nicholas</i> Fails to Teach or Suggest “Placing the Advertising Material Within Web Property Content of” [the at Least One Website]	20
4.	Conclusion	22
C.	Claim Elements [g] and [h] Are Not Taught or Suggested by the Ground References	22

D. Claim Element [k] Is Not Taught Or Suggested by the
Ground References 24

E. Claims 8, 17, and 20 Are Not Taught or Suggested by the
Ground References 27

II. CONCLUSION.....28

TABLE OF AUTHORITIES

	Page(s)
<u>Cases</u>	
<i>Ferguson Beauregard/Logic Controls, Div. of Dover Res., Inc. v. Mega Sys., LLC</i> 350 F.3d 1327 (Fed. Cir. 2003)	8
<i>Home Diagnostics, Inc. v. Lifescan, Inc.</i> 37 Fed. Appx. 516 (Fed. Cir. 2002).....	8
<i>IGT v. Bally Gaming Int’l, Inc.</i> 659 F.3d 1109 (Fed. Cir. 2011)	8
<i>Koito Mfg. Co. v. Turn-Key-Tech, LLC</i> 381 F.3d 1142 (Fed. Cir. 2004)	8
<i>Vitronics Corp. v. Conception, Inc.</i> 90 F.3d 1576 (Fed. Cir. 1996)	9

EXHIBIT LIST

No.	Description
1001	U.S. Patent No. 11,416,898 B2 to John E. DeTitta (filed May 24, 2019, issued Aug. 16, 2022) (“’898” or “’898 patent”)
1002	Declaration Of Mark Crovella, PH.D.
1003	U.S. Patent Application Pub. No. 2004/0054589 A1 to Frank C. Nicholas et al. (filed September 8, 2003, published March 18, 2004) (“ <i>Nicholas</i> ”)
1004	U.S. Patent Application Pub. No. 2004/0128547 A1 to Robert Laidlaw et al. (filed December 31, 2002, published July 1, 2004) (“ <i>Laidlaw</i> ”)
1005	U.S. Patent Application Pub. No. 2001/0039515 A1 to Vijay Mayadas (filed May 2, 2001, published November 8, 2001) (“ <i>Mayadas</i> ”)
1006	U.S. Patent Application Pub. No. 2005/0027594 A1 to Elliot Yasnovsky et al. (filed November 3, 2003, published February 3, 2005) (“ <i>Yasnovsky</i> ”)
1007	U.S. Patent No. 8,156,216 B1 to Brent Error (filed January 10, 2003, issued April 10, 2012) (“ <i>Error</i> ”)
1008	U.S. Patent No. 6,138,142 to Steven J. Linsk (filed December 20, 1996, issued October 24, 2000) (“ <i>Linsk</i> ”)
1009	Excerpts from Robbin Zeff et al., Advertising on the Internet (2d ed. 1999)
1010	Excerpts from Microsoft Computer Dictionary (5th ed. 2002)
1011	Excerpts from Dictionary of Computer and Internet Terms (8th ed. 2003)
1012	U.S. Provisional Patent Application No. 60/298,329
1013	U.S. Provisional Patent Application No. 60/362,297
1014	Excerpts from Bob Baxley, Making the Web Work: Designing Effective Web Applications (2002) (“ <i>Baxley</i> ”)
1015	WO 01/59653 A1 to Neal J. Manowitz (filed January 31, 2001, published August 16, 2001) (“ <i>Manowitz</i> ”)

No.	Description
1016	Excerpts from James F. Korsh, <i>Data Structures, Algorithms, and Program Style</i> (1986) (“Korsh”)
1017	Declaration of Ingrid Hsieh-Yee, Ph.D.
1018	Proof of Service of Complaint in BrodTi Inc. v. Google LLC, Case No. 1:24-cv-00173-JCB (D. Del.)
1019	Plaintiff’s Notice of Voluntary Dismissal in BrodTi Inc. v. Google LLC, Case No. 6:24-cv-00058-RP (W.D. Tex.)
1020	’898 Patent Prosecution History
1021	Excerpts from AIPLA 2023 Report of the Economic Survey available at < https://fundamentalpatlit.com/wpcontent/uploads/2024/02/AIPLA.pdf >
1022	Docket Sheet in BrodTi Inc. v. Google LLC, Case No. 1:24-cv-00173-JCB (D. Del.)
1023	Table C-5—U.S. District Courts—Civil Statistical Tables For The Federal Judiciary (December 31, 2024) available at < https://www.uscourts.gov/data-news/datatables/2024/12/31/statistical-tables-federal-judiciary/c-5 >
1024	Declaration of Mark R. Weinstein ISO Petitioner’s Notice of Intent to Designate a Provisionally Recognized PTAB Attorney as Backup Counsel
1025	Declaration of Reuben Chen ISO Petitioner’s Notice of Intent to Designate a Provisionally Recognized PTAB Attorney as Backup Counsel
1026	Reply Declaration of Mark Crovella, Ph.D. ISO Petition for Inter Partes Review
1027	Transcript of January 22, 2026 deposition of Harley Myler, Ph.D., P.E.
1028	Excerpts from Webster’s New World Computer Dictionary (10th ed. 2003)

No.	Description
2002	Prosecution History for the '898 Patent (U.S. Application No. 16/422,106) (Pros. His.)
2003	Prosecution History for the '290 Patent (U.S. Application No. 14/015,604) ('290 Patent Pros. His.)
2004	October 24, 2025 Deposition Transcript of Dr. Mark Crovella, Ph.D.
2005	Plaintiff's Response To Defendant's Motion To Dismiss in BrodTi Inc., v. Google LLC, C.A. No. 24-173-JCB (D. Del.).
2006	Printout of www.youtube.com as it appeared on April 30, 2007 from the Internet Archive.
2007	Dictionary Definitions of "option," "predetermined," and "select" from The New Oxford American Dictionary by the Oxford University Press, 2001
2008	Dictionary Definitions of "option," "predetermined," and "select" from Webster's Third New International Dictionary, Merriam-Webster, Inc., 2002
2009	Declaration of Harley Myler, Ph.D, P.E.
2010	Declaration of Timothy Cremen

Despite a full opportunity to reply, Petitioner still has not shown where Grounds 1–4 teach or suggest several core aspects of the challenged claims, nor has it cured the deficiencies identified in Patent Owner (“PO”)’s Response.

I. PETITIONER FAILS TO ESTABLISH THAT ANY CHALLENGED CLAIMS ARE UNPATENTABLE

A. Claim Elements [c] and [d] Are Not Taught or Suggested by the Ground References

1. Claim Language

As set forth in the Patent Owner Response (“POR;” pp. 21-23), elements [c] and [d] of independent claims 1, 10, and 19,¹ read in conjunction, require:

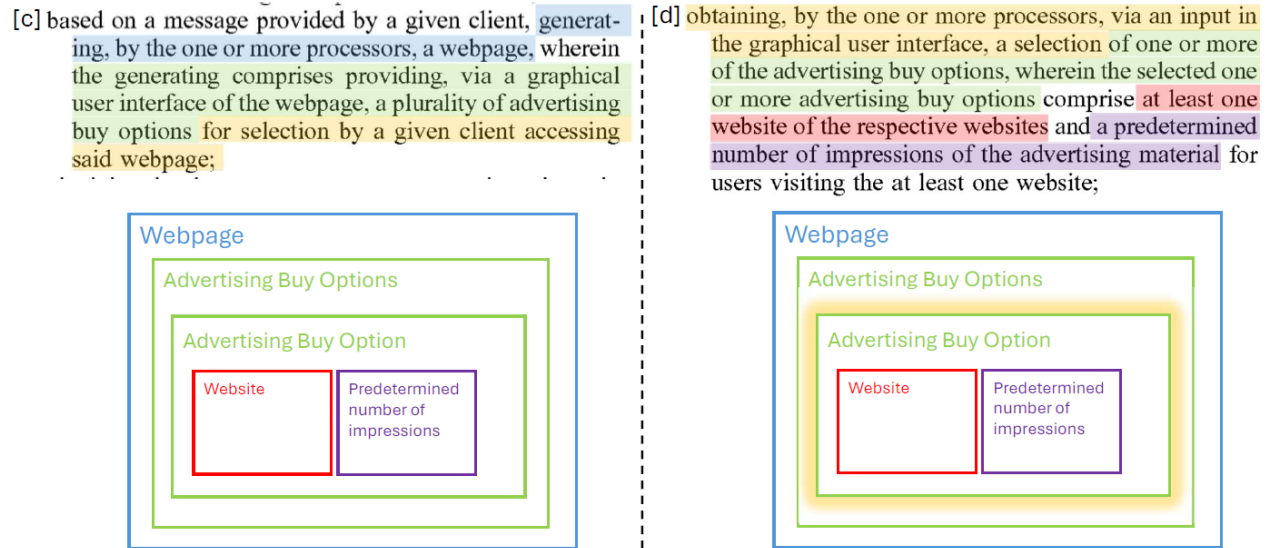
I: generating a **webpage** with a GUI that provides “**advertising buy options**” for subsequent **selection** by a client (element [c]);

II: obtaining the client’s **selection** of at least one of the provided “**advertising buy options**” via input into the GUI (element [d]); and

III: the “**advertising buy options**” provided in (element [c]) and selected via the GUI (element [d]) include at least one “**advertising buy option**” including “**at least one website of the respective websites**” and “**a predetermined number of impressions of the advertising material** for users visiting the at least one website” (element [d]).

¹ Elements [c], [d], [f], [g], [h], and [k] are found in each of the independent claims 1, 10, and 19 and Patent Owner’s arguments apply to each.

A graphical representation of the language of elements [c] and [d] and these requirements is illustrated in color-coded form below:



With regard to requirement III, although the “**at least one website of the respective websites**” and “**a predetermined number of impressions of the advertising material**” are first recited in element [d], they exist in a “wherein ...” clause specifying these features to be part of at least one “**advertising buy option**” of the “**advertising buy options**” that are “generated”/“provided” via a GUI (element [c]) such that they can be “selected” from (element [d]).

Thus, elements [c]/[d] together require that at least one “**advertising buy option**” be generated/provided (element [c]) in the GUI for selection (element [d]), and that the “**advertising buy option**” includes both “**at least one website of the respective websites**” and “**a predetermined number of impressions of the advertising material.**” EX2009 (*Myler Dec.*), ¶¶78-80.

This understanding is consistent with the '898 Patent's specification which explains that the "advertising buy options" have to be provided *to a client* to be selected *by the client*. EX2009 (*Myler Dec.*), ¶78; EX1001 ('898 Patent), 6:16-23. *Id.* It is also consistent with basic logic, as the selected "**advertising buy option**" including "**at least one website of the respective websites**" and "**a predetermined number of impressions of the advertising material**" must exist in some selectable form before it can be selected in element [d].

2. *Nicholas* Fails to Teach or Suggest These Elements

As set forth in the POR (24-27), Petitioner fails to show that *Nicholas*'s FIGS. 8/9 (upon which it solely relies for elements [c]/[d]) teaches or suggests: (i) generating a GUI that provides an "advertising buy option" that includes "a predetermined number of impressions of the advertising material" (element [c]) and/or (ii) obtaining the selection of the provided "advertising buy option" that includes "a predetermined number of impressions of the advertising material" by the client via the GUI (element [d]).

It is Petitioner's (continuing) position that *Nicholas* teaches these elements by FIG. 8's depiction of *client/advertiser entry* of a number of impressions in a text box, as shown in annotated FIG. 8 below. Reply at 10.

Dizpersion log off threshold

accounts advertiser website newspaper

Broadcast Ad Ad Upload Coupon Quantity Channels Geographic Demographic Summary

Company Name
User Name
Street Address
City, State Zip
[Home](#)

Steps

1. Enter the Number of Impressions Purchased.
2. Select the Broadcast Start Date.
3. Select the Broadcast Start Time and Time Zone.
4. Select the Broadcast End Date.
5. Select the Broadcast End Time and Time Zone.
6. Press Submit.

Impressions

Start Date
Month Day 2001

Start Time
1:00 AM Eastern

End Date
Month Day 2001

End Time
1:00 AM Eastern

2001 Dizpersion Corporation Contact Us Privacy Terms of Use

FIG. 8

But, as set forth in the POR (25-26), providing a text box and accepting a *client/advertiser-entered* number therein is not the “generating”/“providing” for selection, or the actual “selection” of, an “advertising buy option” that includes “a predetermined number of impressions of the advertising material” required by elements [c]/[d]. EX2009 (*Myler Dec.*), ¶¶78-80, 87.

More specifically, providing a text box is not “generating”/“providing” for selection of an “advertising buy option” that includes “a predetermined number of impressions of the advertising material.” EX2009 (*Myler Dec.*), ¶87. The identified text box does not provide any “advertising buy option,” let alone one that includes “a predetermined number of impressions of the advertising material.” *Id.* Further, typing a value in a text box is not selecting a generated/provided “advertising buy option” that includes “a predetermined number of impressions of the advertising

material” at least because no “option” is being “selected.” *Id.*² Still further, a client/advertiser entering a value in real-time is not selecting a generated/provided “predetermined”³ number of impressions. *Id.* And finally, the entry of a number of impressions convenient to the client/advertiser (as taught by *Nicholas*) is ***opposite*** to how the ’898 Patent works. EX2009 (*Myler Dec.*), ¶88. Petitioner has therefore failed to demonstrate the obviousness of elements [c]/[d] by its reliance on *Nicholas*’s FIGS. 8/9.

Petitioner advances various arguments in an attempt to obscure its failure with respect to elements [c]/[d]. None is persuasive or demonstrates obviousness.

Petitioner first asserts that PO’s arguments should be rejected because they would require a particular user interface and visual presentation that is not recited in the claims. Reply at 8-10. But PO argued no such thing. While the POR (22-23), provided examples of possible selectable options for a GUI relating to elements [c]/[d], PO did not argue the claims require any particular visual format.

Petitioner next argues that element [d] encompasses ***any*** “input in the graphical user interface” and that “[t]extual entry of a desired number of

² In other words, the problem is not merely that *Nicholas* uses text-entry instead of a selectable impression option; it is that *Nicholas* uses an advertiser-defined value whereas the claims require the value to be system-generated/provided.

³ See *below* for further discussion of “predetermined”.

impressions as disclosed in *Nicholas* is ‘an input’ that provides ‘a selection of one or more of the advertising buy options.’” Reply at 10-11. This argument was not advanced in the Petition and cannot be advanced now. It also ignores the claim language. Elements [c]/[d] do not just require any “input” as Petitioner posits. Rather, the claimed “input” is further explicitly recited as the “selection” of an “advertising buy option” that includes “a predetermined number of impressions of the advertising material” (element [d]) that has been previously generated/provided (element [c]). *Nicholas*’s teachings of text entry by a client/advertiser in a text box cannot satisfy elements [c]/[d] for at least the reasons set forth above.

Petitioner next argues that *Nicholas* discloses the claimed “selection” because it “does not even require that the advertiser select a predetermined number of impressions” in one embodiment where start and end times are selected and that “[u]nder this embodiment, the number of impressions is not ‘predetermined.’” Reply at 11. To the extent PO understands this argument, it appears to ***concede PO’s point***—that there is no requirement, teaching, or suggestion in *Nicholas* of any generating/providing for selection, or the selection of, a “predetermined” number of impressions as required by elements [c]/[d].

Petitioner next argues that a client/advertiser that enters 1,000 in the text entry box is making a selection just like “an advertiser who selects that same number from a displayed list.” Reply at 11-12. This argument is not substantively

different than Petitioner's previous argument that element [d] encompasses "any input" and fails for the same reason(s).

Petitioner next argues that *Nicholas* teaches elements [c]/[d] because it teaches one alternative where the client/advertiser "may select both the number of impressions and the start and end times." Reply at 12, citing *Nicholas*, ¶0061. Petitioner advanced no such argument in the Petition and it cannot be advanced now. It is also wrong. Claim elements [c]/[d] do not simply require the selection of a number of impressions. Rather, claim elements [c]/[d] require the generating/providing for selection, and selection of, a "***predetermined*** number of impressions." The client/advertiser-typing of a number cannot be the selection of a previously generated/provided "***predetermined*** number of impressions" for the reasons above (and below).

Petitioner next argues that PO is attempting to "distort" the meaning of "predetermined" to: (i) require the client to select from "predetermined options;" and (ii) exclude *Nicholas*'s client text entry of a value that was determined in its head before typing because "[t]he word "predetermined" in limitation [d] simply refers to the specific number of impressions the advertiser had chosen for its advertisement." Reply at 12-14. Petitioner did not advance this (novel)

construction of “predetermined” in the Petition and it cannot be advanced now.⁴

Moreover, as set forth above, the “advertising buy option” that includes “a predetermined number of impressions of the advertising material” must be both generated/provided (element [c]) and selected (element [d]) such that the ***predetermination must occur before the “advertising buy option” is generated/provided (element [c]).***⁵ Something that is determined by the client/advertiser in its head and typed into a text box is not generated/provided for the client/advertiser’s selection and then selected by the client/advertiser.⁶ The concept of number predetermination before advertiser selection is simply foreign to *Nicholas*.

⁴ Petitioner ignores, as it must for its argument, the long line of cases construing predetermined as determined “beforehand” or “in advance.” *See, e.g., Ferguson Beauregard/Logic Controls, Div. of Dover Res., Inc. v. Mega Sys., LLC*, 350 F.3d 1327, 1340 (Fed. Cir. 2003); *IGT v. Bally Gaming Int’l, Inc.*, 659 F.3d 1109, 1118 (Fed. Cir. 2011); *Home Diagnostics, Inc. v. Lifescan, Inc.*, 37 Fed. Appx. 516, 517 (Fed. Cir. 2002); and *Koito Mfg. Co. v. Turn-Key-Tech, LLC*, 381 F.3d 1142, 1147-1148 (Fed. Cir. 2004).

⁵ Even in the context of element [d] only, the “advertising buy option” including “a predetermined number of impressions of the advertising material” must exist before it can be selected.

⁶ A value first chosen by the client/advertiser and then typed into a text box is user-determined, not predetermined by the system and offered for selection.

Finally, Petitioner asserts that PO's demonstration that Petitioner's reading of elements [c]/[d] is contrary to the '898 Patent's exemplary embodiment is not relevant. Reply at 14-16. Petitioner is wrong to suggest that the specification's exemplary embodiment is irrelevant to understanding the claim language. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1583-84 (Fed. Cir. 1996).

3. Petitioner's Ground Fails If Its Construction of "Website" Is Used for Elements [c]/[d]

As set forth below, Petitioner's Reply newly argues that "website" means "a server *and* one or more webpages that may be provided by the server for display in a web browser." Reply at 5 (emphasis added). Petitioner did not apply this construction in its analysis of elements [c]/[d] in the Petition and the Grounds are therefore unsupported.

4. Conclusion

For the reasons above and in the POR, Grounds 1-4 do not show the obviousness of elements [c]/[d].

B. Claim Element [f] Is Not Taught or Suggested by the Ground References

1. Claim Language

a. "Website"

As the Parties apparently agree, the meaning of "website" may slightly vary based on context and has changed over time. Thus, a POSITA would have reviewed the '898 Patent to understand how it was being used therein. To provide

each of the features ***required by the claims*** (including elements [a], [d], [f], [g]), as set forth in the POR (16-19), a POSITA would have understood “website” was being used ***in the claims*** to describe a particular definable webpage (*e.g.*, www.espn.com) or a group of webpages at a particular domain (*e.g.*, www.espn.com, www.espn.com/nba, www.espn.com/nfl, www.espn.com/nhl). EX2009 (*Myler Dec.*), ¶¶66-68, 71. This usage permits the functionality set forth in the identified claim elements. EX2009 (*Myler Dec.*), ¶68. “Website” is used similarly in the ’898 Patent’s specification and in the prior art cited by Petitioner and Dr. Crovella (EX2009 (*Myler Dec.*), ¶¶69-70).

Petitioner also utilized this understanding in its original analysis of “website” for element [d] inasmuch as it compared the claimed “at least one website” to “test.com” in *Nicholas’s* FIG. 9. Petition at 21-27. But Petitioner switched gears in its subsequent analysis of element [f] and abruptly compared “the at least one website” to *Nicholas’s* content provider node 130. Petition at 37-40. Petitioner did not explain this inconsistent analysis of elements [d] and [f], and its element [f] position is inapt. As set forth in the POR (28), server hardware cannot be a “website” in the context of the challenged claims, as it cannot: (i) allow advertisements to be populated on it; (ii) allow web property content to be displayed on it into which the advertising material is placed; (iii) be visitable/accessible by a user; and (iv) be selectable by a client as part of the ad

buy process, as required by, *inter alia*, elements [a], [d], [f], and [g]. EX2009 (*Myler Dec.*), ¶95.

Petitioner, realizing its analytical failure, now asserts that “website” actually means “a server **and** one or more webpages that may be provided by the server for display in a web browser.” Reply at 5, citing EX1026, ¶¶13-15 (emphasis added). In other words, Petitioner is asserting that “website” in the claims has **both** a hardware (server) and software (HMTL page) component.

Petitioner’s interpretation of “website” is based on the slender reed of a single dictionary definition. Reply at 5-6. Petitioner does not grapple at all with how “website” is **actually used** in the challenged claims, ’898 Patent, and applied prior art. Petitioner’s analysis is therefore of little probative value.

Moreover, the Petition does not apply PO’s new definition to each instance of “website” in its analysis of the challenged claims. For example, the Petition did not explain how “website” has a hardware component in its analysis of elements [c]/[d] or a software component in its analysis of element [f]. The Grounds of the Petition are therefore unsupported.

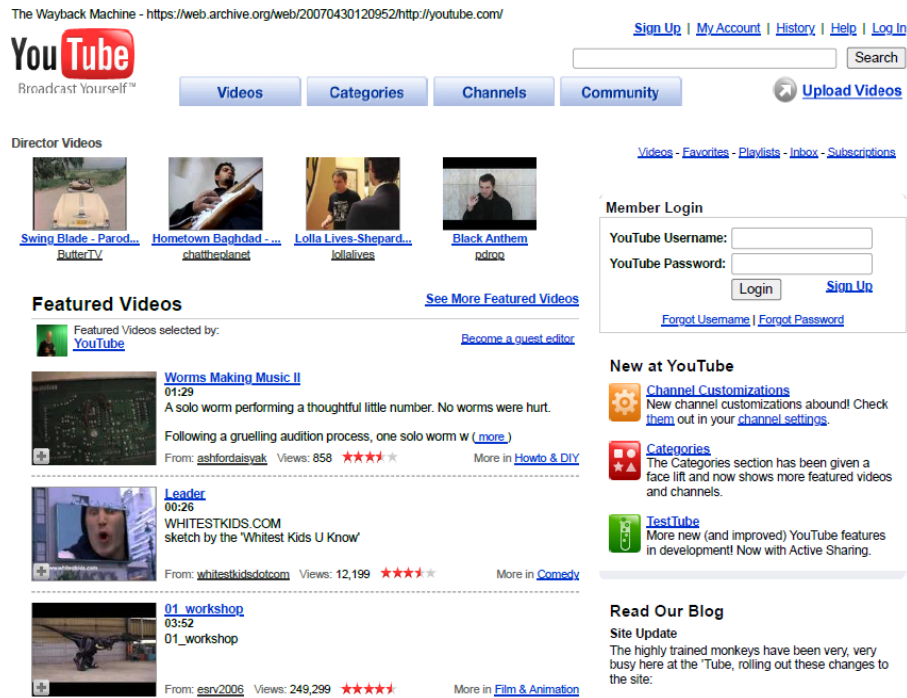
Finally, even if Petitioner’s interpretation was applied, the Petition would still fail to show obviousness of, *inter alia*, element [f] for the reasons below.

b. “Web Property Content”

The Parties dispute whether “web property content” is discrete content accessible *on a webpage* (as PO states) or can be the webpage itself (as Petitioner asserts). PO maintains that the former understanding is correct based on its usage in elements [f], [g], and [k] that require “web property content” to be: (i) capable of being placed on a website (*i.e.*, webpage/webpages as set forth above);⁷ (ii) capable of being accessible to a user on the website (*i.e.*, webpage/webpages) and impression-tracked; and (iii) the thing for which revenue is being sought. EX2009 (*Myler Dec.*), ¶¶58-60. *See* POR (13-15). A shortened version of these requirements would be a discrete user-accessible file on a website (*i.e.*, webpage/webpages) for which revenue is being sought. EX2009 (*Myler Dec.*), ¶61.

An example of web property content on a webpage in the context of the claims is illustrated by the following page from www.youtube.com with multiple content items (*e.g.*, videos) on a website (*e.g.*, www.youtube.com).

⁷ As discussed above, while the parties disagree as to whether “website” would include a server, *they agree that “website” means a webpage or webpages.*



EX2006; EX2009 (*Myler Dec.*), ¶64.

As set forth in the POR (14-15), “web property content” cannot itself be a webpage as Petitioner asserts. “Web property content” is specified in the claims as being capable of (among other things) being placed *on a website* and being *accessible to a user on the website*. “Content” and “website” must therefore be different things (EX2009 (*Myler Dec.*), ¶62) and the Parties *agree* (as discussed above) that a “website” in the challenged claims is (at least) a webpage or webpages.⁸ Thus, “web property content” cannot be a webpage or webpages.

⁸ The Parties disagree as to whether there is also a hardware component, but agree that “website” means webpage/webpages.

Despite the foregoing, Petitioner maintains that “web property content” can somehow include a webpage. Reply at 2. Petitioner is wrong, for many reasons.

Petitioner initially points to two portions of the ’898 Patent’s specification as allegedly supporting its position.⁹ Neither does.

Petitioner first cites the following specification passage:

Advertising on the internet is created by and through the *media property and content on the web property*. The web property is marketed to a target audience who *visits the web property to view the content provided*. Every time an individual *visits the web property*, he/she creates an impression.

EX1001 (’898 Patent), 4:30-34 (emphases added). But nothing in this passage indicates that web property content can be a webpage. It simply explains that it is the media/web property content that is impression-tracked for the fund-raising purposes of the invention. This concept is explained further in the following passage of the ’898 Patent:

... Upon determining a target audience, the marketing team creates in step 62 a *media property* and then promotes it to attract potential targeted audience to access and view the *media property*. The *media property* comprises a description of the relevant target audience and the *content carried by the media* that could illustratively take the form of print, radio, television or as defined above in this financial media production process 50. When the *media property* is created in step 62, the marketing team begins to attract visitors to the *media property* creating impressions in step 64.

⁹ Petitioner’s analysis is facially deficient because it does not analyze how “web property content” is used *in the claims*.

* * *

In particular, an impression is a visitor to the website through access to the World Wide Web that visits a screen of the *media property*. These impressions create a commodity in the advertising community and are packaged by the sales team to be sold in step 66 to an advertiser.

The advertiser is an individual or company, which generally sells in step 68 a product or service, desires to market itself to the targeted audience and purchases the targeted impressions from the sales team at a predetermined media buy. A media buy defines a predetermined cost per impression, and the length of the contracts and ads to be displayed on the *media property*. ...

EX1001 ('898 Patent), 4:65-5:28 (emphases added).

As set forth in the above passage, a POSITA would have understood the media/web property content as a discrete file created by a marketing team, placed on a website (*i.e.*, a webpage), and impression-tracked¹⁰ (*i.e.*, a visit to a screen of the property) for fund-raising purposes. There is no support in these passages (or anywhere in the '898 Patent) for reading the media/web property content as corresponding to a webpage. Nor does it make logical sense. The fundraising aspect of the '898 Patent is implemented by accessing individual content files, not

¹⁰ The foregoing passage specifies that “an impression is a visitor to the website through access to the World Wide Web that visits a screen of the media property.” This shows there to be a distinction between a “website” (*i.e.*, webpage) and media/web property content and that the tracked impression is of the content, not the website (*i.e.*, webpage) on which the content is provided.

the webpages on which the content is provided. The webpage is merely a vehicle for the web property content to be displayed and accessed.

Second, Petitioner argues that “web property content” can include a webpage based on the following passage of the ’898 Patent:

The WWW [World Wide Web] service allows a server computer system (i.e., Web server or Web site) to send graphical Web pages or screens of information such as the advertising materials to a remote client computer system 10.

EX1001 (’898 Patent), 3:66-4:2. But this passage again supports PO, not Petitioner. For example, it states that a server may send “webpages” **OR** “screens of information such as the advertising materials” (provided in the web property content) to a client. Thus, the ’898 Patent treats “webpages” and “advertising materials” in the web property content as *separate* things, as PO explains above.

Petitioner also criticizes PO’s position that “web property content” would be understood to be a discrete user-accessible file in the context of elements [f], [g], and [k]. EX2009 (*Myler Dec.*), ¶61. Petitioner argues that the “web property content” is not described in the specification in this manner. While these words are not expressly used in the specification *vis-à-vis* “web property content,” they come from a reading of elements [f], [g], and [k] as explicitly reciting that the “web property content” must be user-accessible, impression-tracked, and ownable. For content to be impression-tracked and ownable it has to be a discrete file of some kind—otherwise there is nothing to track or own.

Finally, Petitioner criticizes PO's position that, in the context of elements [f], [g], and [k], "web property content" would be understood to be a file for which revenue is being sought. EX2009 (*Myler Dec.*), ¶61. Petitioner asserts that there is no reason to import revenue collection concepts into "web property content" in view of element [k]'s recitations. But again, a reading of elements [f], [g], and [k] reveal that the "web property content" is impression-tracked such that collected revenue can be allocated and transmitted to the owner. Thus, the "web property content" is clearly the file for which revenue is being collected.

c. "Placing The Advertising Material Within Web Property Content"

As set forth in the POR (15-16), a POSITA would have understood this phrase to mean inserting the advertisement into web property content (with the meaning above) on a website (*i.e.*, webpage or webpages for the reasons above). Petitioner's criticism of this reading seems largely to be based on its argument that "placing" and "inserting" have different scopes. Reply at 7-8. But the POR did not assert a one-for-one correspondence between these terms. Rather, the POR explained that a POSITA would have understood "placing ... within" to mean "inserting into." Petitioner does not address this position at all. In any event, no matter whether "placing ... within" or "inserting into" is used, Petitioner has not demonstrated obviousness.

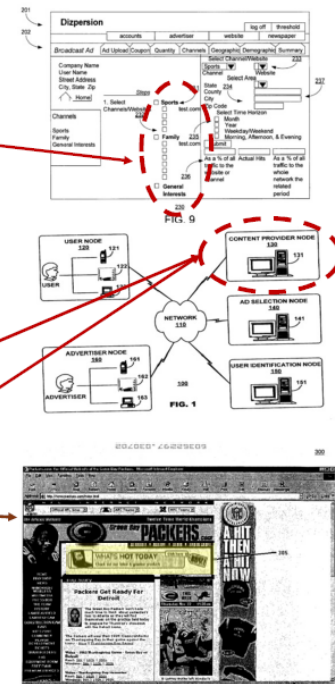
2. *Nicholas* Fails to Teach or Suggest [Placing the Advertising Material Within Web Property Content of] “the at Least One Website”

Petitioner appears to agree that “the at least one website” recited in element [f] refers back to the “at least one website” selected as part of the “advertising buy option” in element [d]. But Petitioner’s position as to what teaches a “website” in *Nicholas* in these elements is inconsistent. Petitioner compared the “at least one website” selected in element [d] to one of the websites listed in *Nicholas*’s FIG. 9 (e.g., “test.com.”). Pet. at 23. For element [f], however, Petitioner asserts that *Nicholas*’s node 130 teaches “the at least one website.” Pet. at 37-39; EX1002 (*Crovella Dec.*), ¶¶125-126; EX2009 (*Myler Dec.*), ¶95. This inconsistency (graphically shown below) should alone be fatal to the Petition.

Claim Elements

- [d] obtaining, by the one or more processors, via an input in the graphical user interface, a selection of one or more of the advertising buy options, wherein the selected one or more advertising buy options comprise **at least one website of the respective websites** and a predetermined number of impressions of the advertising material for users visiting the at least one website;
- [e] generating, by the one or more processors, on a database accessible to the one or more processors, a repository for advertising revenue based on the selection;
- [f] based on obtaining the selection, populating, by the one or more processors, **the advertising material on the at least one website**, wherein the populating comprises placing **the advertising material within web property content of the at least one website**;

Petitioner’s Comparisons



Moreover, as set forth in the POR (28), *Nicholas*'s node 130 is not a “website” in the context of the claims as it is not a webpage/webpages. EX2009 (*Myler Dec.*), ¶95. A server node, by itself, cannot provide the functions required of a “website” by the elements of claim 1, and Petitioner does not explain how it can. EX2009 (*Myler Dec.*), ¶95. Nor does Petitioner explain how *Nicholas* teaches that node 130 corresponds to the *particular website* (e.g., “test.com.”) selected by the advertiser in element [1d]. EX2009 (*Myler Dec.*), ¶96.

Petitioner disagrees, arguing that it explained on: (i) p. 10 of the Petition that *Nicholas*'s “node 130 can provide ‘a consumer web site,’ which ‘can be a standard web site made up of HTML pages accessible on the Internet,’ by conventional web browsers,” citing *Nicholas*'s ¶106; and (ii) on pp. 37-38 of the Petition node 130 provides a webpage such as FIG. 3 of the *Nicholas* provisional “that ‘shows an example website page populated with advertising material (305, an ad for Best Buy) within the site’s web property content.’” Reply at 16-17.¹¹

This characterization is inconsistent with what the Petition actually argued.

¹¹ See also Reply at 17 (“The Petition thus mapped the claimed “website” not only to content provider node 130, but to the webpage generated by content provider node 130 displayed to the website visitor, on which the advertisement is placed,” citing Petition, 38-39; EX1002, ¶126).

First, the Petition clearly and repeatedly equates node 130 to the “at least one website” of element [f] (*see* Petition at 37-38). The Petition’s discussion of webpages on p. 10 is not repeated or explained *vis-à-vis* elements [c]-[f], for example, and the analysis of element [f] does not explain, for example, which purported webpage of node 130 is the webpage selected in element [d].

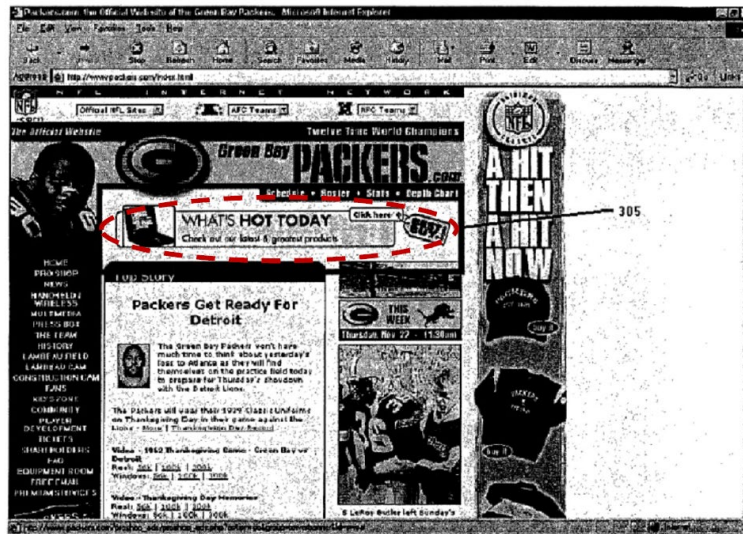
Second, the Petition ***cannot*** be re-interpreted as arguing that webpages on node 130 can be the “at least one website” of element [f] because the Petition argues (wrongly) that a webpage, such as that shown in FIG. 3 of the *Nicholas* provisional, is the “web property content” (Petition at 38-39), as discussed below and illustrated in the diagram above. Nowhere does the Petition describe a webpage as teaching the “at least one website” of element [f] and Petitioner cannot rely on a webpage to teach ***both*** the claimed “website” and “web property content” based on its whim.

3. *Nicholas* Fails to Teach or Suggest “Placing the Advertising Material Within Web Property Content of” [the at Least One Website]

The Parties also disagree as to whether *Nicholas* teaches that an advertisement is populated “within web property content.” As set forth in the POR (29-30), FIG. 3 of the *Nicholas* provisional upon which Petitioner relies as to this element (reproduced below with annotations identifying the alleged advertisement) cannot teach this requirement as, while the advertisement in this figure is placed on

a website (*i.e.*, a webpage or webpages as set forth above), it is not placed “within web property content” (*e.g.*, a discrete user-accessible file) of the website (*i.e.*, a webpage or webpages as set forth above) as expressly required by the claims.

EX2009 (*Myler Dec.*), ¶¶97-98.



Petitioner disagrees, arguing that: (i) “web property content” includes a webpage; and (ii) “Nicholas discloses an advertisement placed on and/or inserted into a webpage (Petition, 37-39.)” Reply at 18-19. Petitioner points specifically to FIG. 3 of the *Nicholas* provisional, which it asserts “shows advertisement 305 placed within the content of a webpage of the Green Bay Packers website.” Reply at 18-19. But Petitioner’s reading of “web property content” as inclusive of a webpage is wrong for the reasons above. And, in any event, Petitioner cannot rely on the webpage of Figure 3 of the *Nicholas* provisional to teach both the “at least

one website” (as discussed above) **and** the “web property content,” as those are separately claimed elements.

Petitioner also argues that the webpage depicted in FIG. 3 of the *Nicholas* provisional would qualify as “web property content” because an HTML file could qualify as “web property content” pursuant to PO’s reading of that term. Reply at 19-20. But, even if this were true, again, the claims make a distinction between website (which Petitioner agrees to be, in part, a webpage or webpages) and “web property content.” The webpage of FIG. 3 of the *Nicholas* provisional cannot be both.

4. Conclusion

For the reasons above and in the POR, Grounds 1-4 do not show the obviousness of element [f].

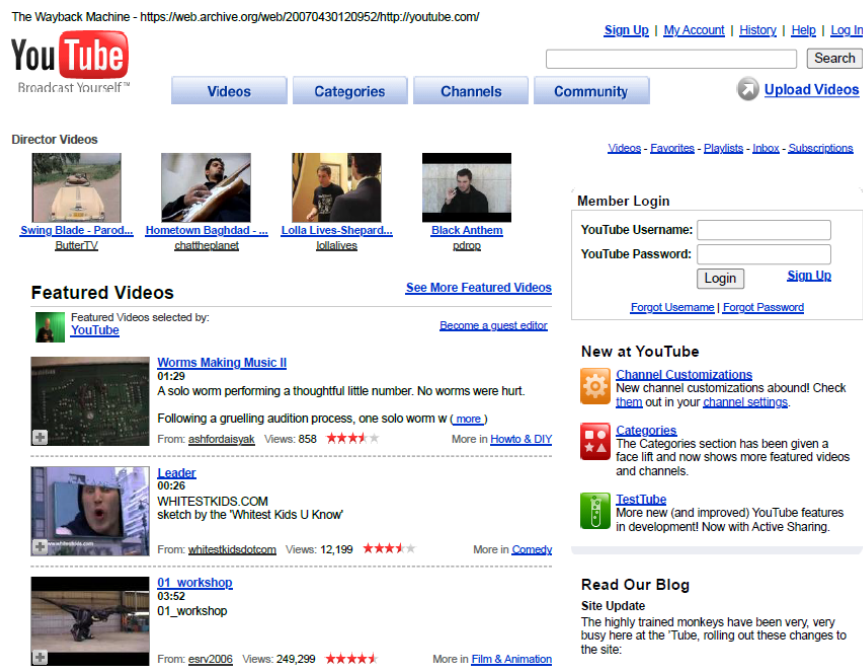
C. Claim Elements [g] and [h] Are Not Taught or Suggested by the Ground References

The Parties’ disputes as to these elements largely relate to their differing positions as how a POSITA would have understood “website” and “web property content.” There does not seem to be any dispute that, should PO’s positions as to those terms be found correct, the challenged claims would be patentable.

More specifically, as set forth above and in the POR (31-33), the impression-tracking and validity determination of elements [g]/[h] must be performed with respect to impressions of the advertising content that has been

“plac[ed] ... within web property content of the at least one website” as required by element [f]. In this context, as set forth above, the advertisements must be inserted into some kind of discrete file (the claimed “web property content”) on a webpage (the claimed “website”) to provide such functionality. Petitioner’s proposed combination of *Nicholas* and *Error* does not teach or suggest impression tracking or validation of advertisements *within web property content* as required by the claims. Rather, Petitioner’s combination teaches only impression tracking of webpages.

As a matter of example, Petitioner does not explain how the *Nicholas/Error* combination would teach the impression tracking of individual videos (e.g., web property content) on the youtube website (e.g., the webpage www.youtube.com).



EX2006; EX2009 (*Myler Dec.*), ¶64. Petitioner only explains how tracking of the youtube website (e.g., the webpage www.youtube.com) would purportedly be implemented.

Petitioner does not appear to dispute PO's foregoing analysis, instead resting its arguments on the Parties' differing claim interpretations. Reply at 21-22.

Petitioner is wrong. Accordingly, for the reasons above and in the POR, Grounds 1-4 do not show the obviousness of elements [g]/[h].

D. Claim Element [k] Is Not Taught Or Suggested by the Ground References

There are two main disagreements between Petitioner and PO regarding element [k].

First, Petitioner bases most of its obviousness assertions for this element upon an argument that “based on determining a number of valid impressions are met” should include situations where “a number” can be *one*. Reply at 22. But “a number” cannot be understood out of the context of the remaining claim language. What is recited is a determination of “a number of valid impressions.” As set forth in the POR (35-36), “a number of valid impressions” requires more than one impression because “impressions” is plural. EX2009 (*Myler Dec.*), ¶114. Moreover, a POSITA would further have understood that a plural number of impressions was required in the context of the claim as there would be no need to

track a number of impressions if a direct action could be taken based on the detection of a single impression. *Id.*

Petitioner also argues that, if the patentee had intended to require a plurality of valid impressions, it would have inserted “plurality” into the claim language. Reply at 23. But Petitioner does not propose a way to do so in the grammar of element [k]. Moreover, Petitioner ignores that the claims repeatedly use the phrase “one or more” to provide a singular and plural scope. Patentee, however, did not use “determining whether one or more valid impressions are met” for element [k], thus leading to a conclusion that it did not intend to cover situations where “a number” is *one* as Petitioner posits.

Thus, Petitioner’s obviousness arguments for element [k] based on “a number of valid impressions” covering a single impression are wrong.

That leaves Petitioner with a single argument for element [k]—that a POSITA would have understood, based on *Nicholas’s* teaching that impressions can be purchased on a cost per thousand basis, that *Mayadas’s* payment scheme could be modified such that payment can be effected “after a larger number of valid impressions had completed.” Reply at 23-24. But, as set forth in the POR (36-37), Petitioner has not demonstrated there to be any motivation to modify *Mayadas’s* payment scheme as it alleges. *Mayadas* teaches that payment-per-ad-service is an important feature to reduce risk. EX1005 (*Mayadas*), ¶[0038];

EX2009 (*Myler Dec.*), ¶117. Petitioner's proposed modification is the opposite of *Mayadas*'s teachings and would defeat, not further, its risk-reduction rationale. *Id.* The only motivational support offered by Petitioner to reverse *Mayadas*'s teachings is Dr. Crovella's *ipse dixit*. But this is not enough. Just because ads are *priced* on a volume basis does not make the claimed *payment* steps obvious. *Id.*

Petitioner offers only two rebuttals. First, Petitioner offers reasons why one could reduce risk in *Mayadas* by modifying it as proposed. Reply at 23-24. But that argument was not advanced in the Petition and is conjecture. Second, Petitioner argues that pricing per thousand was known and this knowledge would have motivated a POSITA to modify *Mayadas* to reach element [k]. Reply at 24. But this just restates what was in the Petition. It offers no additional evidence that such a modification would have been made and is, again, conjecture. If this was such a straightforward modification surely Petitioner could have identified a reference teaching such methodology. That Petitioner was unable to do so tends to show Petitioner's proposed modification was not obvious, particularly in view of the per-ad payment strategy common at the time.

Accordingly, for the reasons above and in the POR, Grounds 1-4 do not show the obviousness of element [k].

E. Claims 8, 17, and 20 Are Not Taught or Suggested by the Ground References

Beyond the claim-interpretation issues above, the Parties’ dispute as to this claim relates to whether *Yasnovsky* teaches, *inter alia*, obtaining a “request for increasing the predetermined number of impressions of the advertising material.” Petitioner asserts that *Yasnovsky*’s teaching of ***client/advertiser*** edits to its campaigns would have made it obvious to adjust the impression numbers entered into *Nicholas*’s FIG. 8 (*see* element [d]), and that such a process would render claim 8 obvious. But, as set forth in the POR (38), that argument ignores the requirements for the “predetermined number of impressions” in elements [c]/[d] just like Petitioner’s analysis of those elements. *Yasnovsky* teaches adjustments to a campaign budget (not impressions) by the ***client/advertiser***, not the party offering the “predetermined number of impressions” specified in elements [c]/[d] ***to an advertiser***. EX2009 (*Myler Dec.*), ¶121.

II. CONCLUSION

For the reasons set forth above, PO respectfully requests that the Board find the Challenged Claims patentable.

Date: March 16, 2026

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CERTIFICATE OF COMPLIANCE

1. This Patent Owner's Sur-Reply complies with the type-volume limitation of 5,600 words, comprising 5,511 words, as counted using the Microsoft Word software that was used to prepare this paper, excluding the parts exempted by 37 C.F.R. § 42.24.

2. This Sur-Reply complies with the general format requirements of 37 C.F.R. § 42.6(a) and has been prepared using Microsoft® Word 2016 in 14-point Times New Roman.

Date: March 16, 2026

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 16, 2026, a true and correct copy of the **PATENT OWNER'S SUR-REPLY** was served via email to all parties to the following counsel of record for the Petitioner:

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