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Paper 16
Date: March 24, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

ANONYMOUS MEDIA RESEARCH HOLDINGS, LLC,
Patent Owner.

IPR2024-01349
Patent 10,719,849 B2

Before ROBERT J. WEINSCHENK, FREDERICK C. LANEY, and MICHAEL T. CYGAN, *Administrative Patent Judges.*

LANEY, *Administrative Patent Judge*.

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

Denying Petitioner's Motion Seeking Relief Regarding Patent Owner's Certificate of Correction
35 U.S.C. § 42.5

AMR EX. 2113
Samsung v AMR
IPR2025-00558

I. INTRODUCTION

Samsung Electronics, Co. Ltd.[1] ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 1–13 of U.S. Patent No. 10,719,849 B2 (Ex. 1001, "the '849 patent"). Anonymous Media Research Holdings, LLC[2] ("Patent Owner") filed a Preliminary Response (Paper 11, "Prelim. Resp."). With our authorization, Petitioner filed a "Motion Seeking Relief Regarding Patent Owner's Certificate of Correction" (Paper 7) and Patent Owner filed a "Response to Petitioner's Motion Seeking Relief Regarding Requested Certificate of Corrections" (Paper 10). Additionally, after receiving further authorization, Patent Owner filed "Patent Owner's Authorized Brief Addressing *Fintiv*" (Paper 12) and Petitioner filed "Petitioner's Reply Brief Regarding *Fintiv*" (Paper 14).

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314 (2024); 37 C.F.R. § 42.4(a) (2024). An *inter partes* review may not be instituted "unless . . . the information presented in the petition . . . and any 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." 35 U.S.C. § 314(a). For the reasons that follow, we do not institute an *inter partes* review because the information presented in the Petition, in view of the Preliminary Response, does not persuade us that Petitioner is reasonably likely to prevail with respect to at least 1 of the claims challenged. Furthermore, in view of our determination

[1] Petitioner identifies itself and Samsung Electronics America, Inc. as the real parties-in-interest. Pet. 1.

[2] Patent Owner identifies itself as a real party-in-interest. Paper 9, 1 (Patent Owner's Second Updated Mandatory Notices). We note that Patent Owner failed to include page numbers in Paper 9; as a result, we have ascribed page numbers with page 1 beginning after the caption page.

regarding institution, Petitioner's motion is likewise denied and we need not decide the issue of discretionary denial under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (Mar. 20, 2020) (precedential).

II. BACKGROUND

A. Related Matters

The parties identify the following civil actions as related matters: *Anonymous Media Research Holdings LLC v. Samsung Electronics Co. Ltd.*, No. 2:23-cv-00439 (E.D. Tex.); and *Anonymous Media Research Holdings LLC v. Roku, Inc.*, No. 3-24- cv-04171 (N.D. Cal.). Pet. 1; Paper 9, 2 (Patent Owner's Second Updated Mandatory Notices). The parties also identify IPR2024-01058 as challenging the '849 patent, in addition to several other IPRs challenging the other patents at issue in the above litigation between the parties. Pet. 2, Paper 9, 1–2.

B. The '849 patent (Ex. 1001)

The '849 patent discloses a media usage monitoring and measurement system and method, including "analyz[ing] sequence data to enhance content identification and/or to establish channel identification." Ex. 1001, codes (54), (57).

Figure 1 is reproduced below.

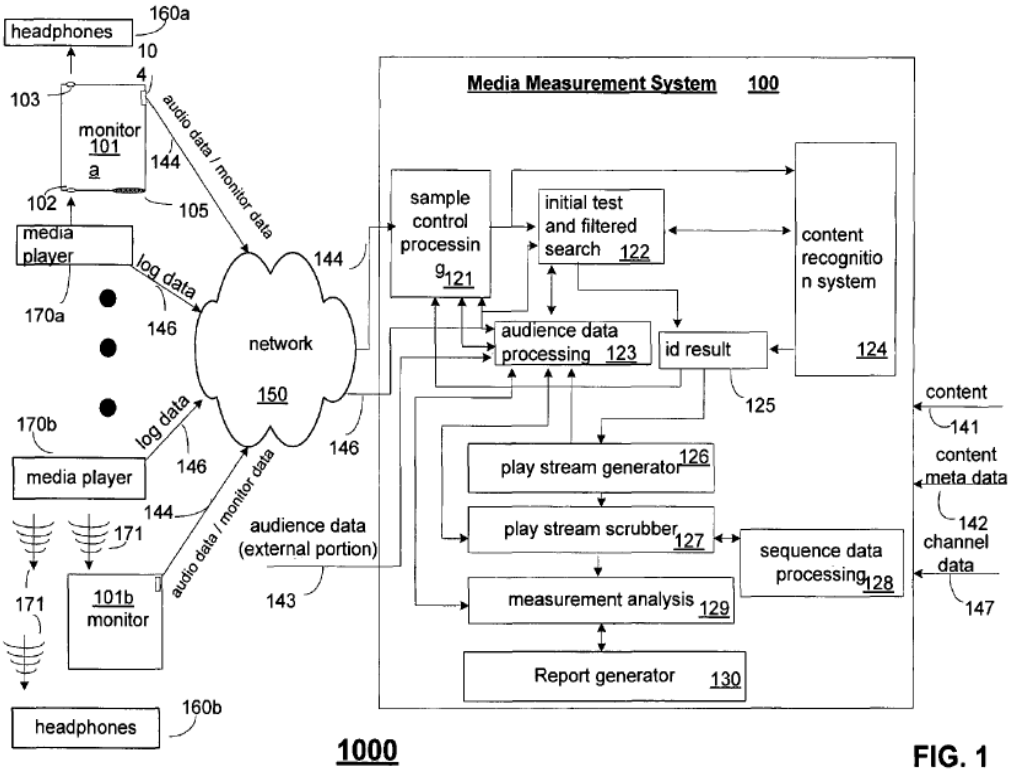


FIG. 1

Figure 1 shows a media usage monitoring and measurement system, including monitoring devices 101, which capture audio/monitor data 144 from media player 170 and upload the data through network 150 to media measurement system 100, where the data is received at sample control processing module 121. Ex. 1001, 2:30–32, 3:5–28, 3:45–50, 4:58–60. The audio data is divided into samples, either at monitor 101 or at module 121. *Id.* at 4:62–67. Module 121 submits a sample either to initial test and filtered search module 122 or to content recognition system 124. *Id.* at 4:67–5:3. Module 122 conducts an initial identification attempt. *Id.* at 5:3–5. If no identification is made, then content recognition system 124 performs a search using a larger portion of the sample, applying "known content recognition methods that identify content by extracting parameters from a media signal and applying an algorithm to those parameters to search

for a content match." *Id.* at 5:43–46, 5:48–52. The identification result is passed to ID result module 125, which in turn passes the result to play stream generator 126, which generates a raw play stream relating a sequence of samples to content identification results. *Id.* 5:39–43, 5:46–48, 6:24–27, 8:13–15, Fig. 2 (step 207), Fig. 4 (illustrating raw play stream 410). The raw play stream is then processed by play stream scrubber 127 that uses sequence data processing module 128 to generate a clean play stream and clean play list, which can then be used by measurement analysis module 129 and report generator 130. *Id.* at 6:27–37, 8:13–32, Fig. 2 (steps 209–212).

The method then "attempts to identify the channel by searching known channel data to find an apparent content sequence match to the play list" (step 211). Ex. 1001, 7:21–25, 8:21–23. "If step 211 successfully identifies the channel, information such as content sequence data for the identified channel may be used by step 212 to further scrub or rescrub the play stream." Ex. 1001, 8:29–32.

C. Illustrative Claim

Petitioner challenges claims 1–13 of the '849 patent, of which claims 1, 6, and 10 are independent. Claim 1 is illustrative of the claimed subject matter and is reproduced below:

1[a] A media measurement method comprising:

[b] using one or more computers to generate a play stream of content identification results corresponding to a sequence of data samples, the data samples comprising representations of video data captured at a media monitoring device,

[c] wherein content identifiers of the play stream's content identification results are obtained by using corresponding data samples to search a computerized database of known content;

> [d] in response to obtaining the content identifiers, using one or more computers to utilize a sequential order of at least two different obtained content identifiers in the play stream to identify a channel corresponding to the data samples, the at least two different obtained content identifiers identifying different media content items; and
>
> [e] using one or more computers to utilize an identified channel corresponding to the data samples to generate a media measurement report.

Ex. 1001, 15:14–32 (bracketed designations added). Independent claims 6 and 10 are nearly identical to claim 1, except claim 6 is directed to a "computer program" and claim 10 is directed to a "computer system." *Id.* at 15:50–6:9, 16:24–45.

D. Asserted Challenges and Evidence

Petitioner asserts the following challenges to patentability.

Claims Challenged	35 U.S.C.[3] §	Reference(s)/Basis
1–13	103(a)	Steuer750[4], Neumeier[5]
1–13	103(a)	Steuer622[6], Neumeier

[3] The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) ("AIA") amended 35 U.S.C. § 103 with an effective date of March 16, 2013. Because the '849 patent claims priority to an application filed before March 16, 2013, we refer to the pre-AIA version of § 103.

[4] U.S. Patent Application Publication No. US 2005/0267750 A1, published December 1, 2005, filed May 26, 2005 ("Steuer750") (Ex. 1005).

[5] U.S. Patent Application Publication No. US 2010/0306808 A1, published December 2, 2010, filed May 27, 2010 ("Neumeier") (Ex. 1007).

[6] U.S. Patent No. US 8,756,622 B2, issued June 17, 2014, filed September 11, 2008 ("Steuer622") (Ex. 1006).

Pet. 5–6. Petitioner submits the Declaration of Timothy Wahlers. Ex. 1002. Patent Owner submits the Declaration of William Leo Hoarty. Ex. 2001.

III. ANALYSIS

Petitioner raises two substantively similar obviousness grounds challenging the patentability of the claims in the '849 patent. Pet. 40–82. This is so because, as Petitioner states, "Steuer750 and Steuer622 have substantively identical specifications" and "reliance on Neumeier is the same in both [grounds], as is Petitioner's rationale for combining Neumeier with Steuer750 or with Steuer622." *Id.* at 40–41. According to Petitioner, there is a significant difference between the grounds, however, which is the priority date Petitioner alleges that the challenged claims of the '849 patent are entitled. *Id.* at 6. For the Steuer750/Neumeier combination, Petitioner contends that the effective filing date of the challenged claims is not before November 24, 2010. *Id.* And for the Steuer622/Neumeier combination, Petitioner contends that the effective filing date of the challenged claims is not before May 3, 2019. *Id.*

Patent Owner asserts Petitioner is unable to demonstrate a reasonable likelihood of success of proving the challenged claims of the '849 patent are unpatentable. Prelim. Resp. 6. More specifically, Patent Owner asserts that "Petitioner fails to carry its burden of demonstrating that the asserted references—the inventors' related published application and patent (Steuer750 and Steuer622 respectively) and Neumeier—qualify as prior art." *Id.* This is so, according to Patent Owner, because the challenged claims are entitled to the benefit of the May 26, 2005 filing date of the '849 patent's parent U.S. Application No. 11/139,330 (the '330 application), which precedes either asserted priority date relied upon by Petitioner. *Id.* at 6–9.

We agree with Patent Owner that the effective filing date of the challenged claims in the '849 patent is the dispositive issue of this Petition. Our discussion below therefore is focused accordingly on whether the challenged claims are entitled to priority dating back to May 26, 2005, the filing date of the '330 application. And for the reasons set forth below, on this record, we find the challenged claims of the '849 patent are entitled to the benefit of at least the '330 application's May 26, 2005 filing date. As result, we determine that Steuer750, Steuer622, and Neumeier are not prior art.

A. Legal Standards

In an *inter partes* review, "the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable." *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016); *see also* 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify "with particularity . . . the evidence that supports the grounds for the challenge to each claim"). This burden of persuasion never shifts to the patent owner. *See Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). Thus, if Petitioner has not satisfied the threshold reasonable likelihood standard for institution, then institution will be denied. *See id.* at 1378–1379.

A claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, "would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." *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 ordinary skill in the art; and (4) if presented, objective evidence of non-obviousness. *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). As previously noted, the first factor regarding the scope of available prior art is the dispositive issue of this Petition, which is largely defined by the effective filing date of the challenged claims.

Under 35 U.S.C. § 120, a patent application for an "invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States . . . *shall have the same effect, as to such invention, as though filed on the date of the prior application*." (emphasis added). "In essence, this means that in a chain of continuing applications, a claim in a later application receives the benefit of the filing date of an earlier application so long as the disclosure in the earlier application meets the requirements of 35 U.S.C. § 112, ¶ 1, including the written description requirement, with respect to that claim." *Technology Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326 (Fed. Cir. 2008). And to determine whether a parent application meets the written description requirement, "the disclosure must be considered as a whole, as the person of ordinary skill in the art would read it, to determine if it reasonably conveys possession" of the claimed invention. *Allergan USA, Inc. v. MSN Labs. Private Ltd.*, 111 F.4th 1358, 1375 (Fed. Cir. 2024) (citation and emphasis omitted); *see also Reiffin v. Microsoft Corp.*, 214 F.3d 1342, 1345–46 (Fed. Cir. 2000) (the purpose of the written description requirement "is to ensure that the scope of the right to exclude . . . does not overreach the scope of the inventor's contribution to the field of art as described in the patent specification").

B. Level of Ordinary Skill in the Art

Petitioner asserts that a person of ordinary skill in the art ("skilled artisan") at the critical time would have had "an undergraduate degree in electrical engineering, computer engineering, computer science or a related field along with at least four years of work experience in the field of media-related software development or in the alternative, equivalent experience, such as six years of work or research experience in the field of media-related software development." Pet. 7–8 (citing Ex. 1002 ¶¶ 22–26). Petitioner further asserts that more education can supplement practical experience, and vice versa. *Id.* Patent Owner consents to this definition for purposes of this proceeding. Prelim. Resp. 10–11. For purposes of this Decision, we adopt Petitioner's proposed level of ordinary skill, as it is undisputed by Patent Owner and appears to be consistent with the specification of the '849 patent and the prior art of record.

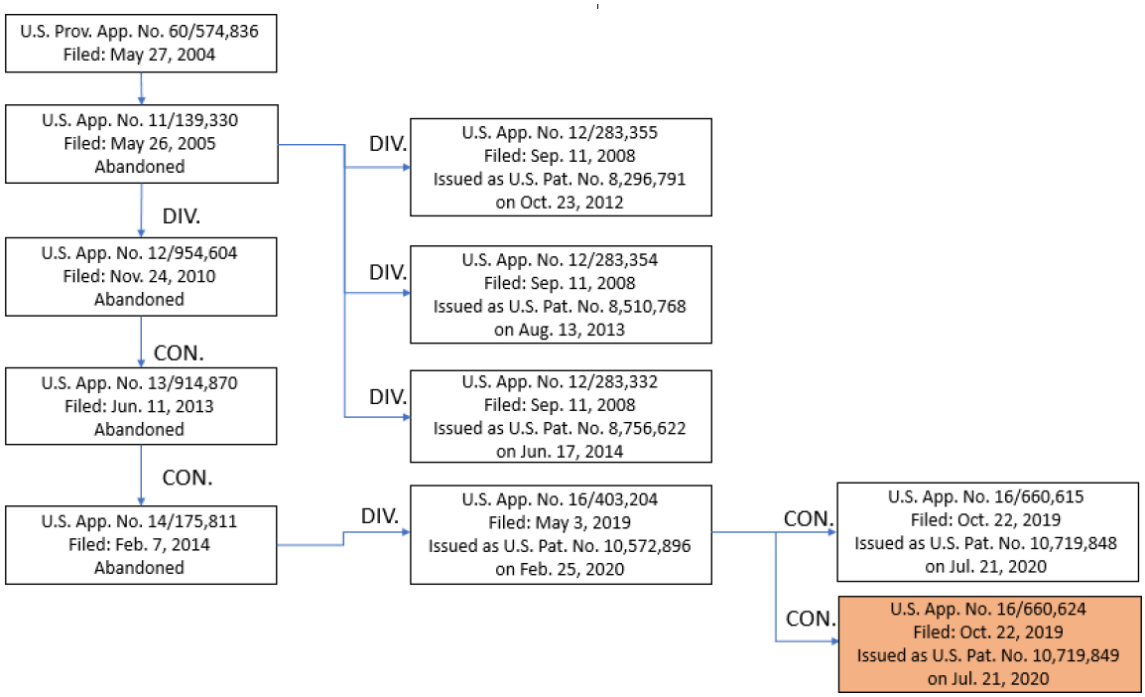
C. Claim Construction

In an *inter partes* review, we apply the same claim construction standard as would be used by a district court to construe a claim in a civil action involving the validity or infringement of a patent. 37 C.F.R. § 42.100(b). Under that standard, claim terms are given their ordinary and customary meaning, as would have been understood by a skilled artisan at the time of the invention, in light of the language of the claims, the specification, and the prosecution history of record. *Id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–19 (Fed. Cir. 2005) (en banc); *Thorner v. Sony Comput. Entm't Am. LLC*, 669 F.3d 1362, 1365–66 (Fed. Cir. 2012).

Here, neither party sets forth any explicit claim construction. Pet. 11; Prelim. Resp. We determine that no need exists to expressly construe any claim terms for purposes of this institution decision.

D. Effective Filing Date of '849 Patent and Scope of Prior Art

The '849 patent recites a priority chain that is illustrated by a demonstrative provided by Petitioner, which is reproduced below. Pet. 12.



The above illustration shows that the '849 patent (highlighted in orange) "is a continuation of U.S. patent application Ser. No. 16/403,204, filed May 3, 2019, which is a divisional of U.S. patent application Ser. No. 14/175,811, filed Feb. 7, 2014, which is a continuation of U.S. patent application Ser. No. 13/914,870, filed Jun. 11, 2013, which is a continuation of U.S. patent application Ser. No. 12/954,604, filed Nov. 24, 2010, which is a divisional of [the '330 application], filed May 26, 2005, which claims priority to U.S. Provisional Patent Application No. 60/574,836 [(the '836 provisional application)], . . . filed May 27, 2004." Ex. 1001, 1:6–18.

Despite its recited lineage, Petitioner contends that the challenged claims in the '849 patent are not entitled to the May 26, 2005 filing date of the '330 application[7] because it "do[es] not provide written description support for at least one feature required by the challenged claims, as required by § 112." Pet. 12 (citing Ex. 1002 ¶¶ 45–47).[8] In particular, Petitioner contends that the '330 application "do[es] not describe using data samples including representations of video data to generate a play stream of content identification results and consequently, the subsequent related features set forth in the claims." *Id.* at 26. Petitioner contends that the '330 application is instead limited to "describ[ing] only embodiments based on **audio** data samples." *Id.* (citing Ex. 1002 ¶ 71).

1. The Challenged Claims Are Entitled to Filing Date of the '330 Application

As evidence the '330 application fails to disclose using data samples including representations of video data to generate a play stream of content

[7] Petitioner concedes that the '330 application "share[s] substantially the same as-filed specification[]" as U.S. patent application Ser. No. 14/175,811, U.S. patent application Ser. No. 13/914,870, and U.S. patent application Ser. No. 12/954,604. Pet. 25 (citing Ex. 1011, 577–599, 610–617; Ex. 1012, 276–298, 311–318; Ex. 1013, 21–43, 56–63; Ex. 1014, 420–442, 455, 460–466; Ex. 1017; Ex. 1018; Ex. 1019). Petitioner contends that whatever written description support the '330 application provides is the same for all these applications. *Id.* We agree and, therefore, we follow Petitioner's lead by focusing only on the written description support provided in the '330 application with the understanding that it applies equally to U.S. patent application Ser. No. 14/175,811, U.S. patent application Ser. No. 13/914,870, and U.S. patent application Ser. No. 12/954,604. *See id.*

[8] For the purposes of this proceeding, Petitioner does not contest that U.S. patent application Ser. No. 16/403,204, which according to Petitioner included "new matter" added by the applicant, provides written description support for the challenged claims of the '849 patent. Pet. 13 n.5.

identification results, Petitioner notes that the application "is replete" with references to "audio," but only references "video" in four instances. Pet. 26 (citing Ex. 1011, 577–599, 610–617). Petitioner also points to the exemplary embodiments in the '330 application, asserting that they "are solely focused on recognizing content based on audio data" samples. Pet. 28. Petitioner asserts that a person having ordinary skill in the art would not have understood those exemplary audio embodiments as being interchangeable with video data embodiments, because of "peculiarities related to audio content . . . that have no clear analog in the video context." *Id.* at 29 (citing Ex. 1002 ¶ 75; Ex. 1011, 577 (¶ 2), 578 (¶ 6), 580 (¶ 17), 584–585 (¶ 25)).

Petitioner highlights that "video data sample" is only referenced a single time in the '330 application. *Id.* at 26–27 (citing Ex. 1011, 578 (¶ 5)[9]; Ex. 1002 ¶ 72). And even in that instance, Petitioner contends that "it is unclear if the term 'video data sample' is used in the context of identifying content by sampling video data or if the term . . . is used to reference video content which includes an audio component, and the audio component is sampled for content recognition." *Id.* at 27. Petitioner represents that "the '330 application does not describe any content recognition using a "video data sample." *Id.* (citing Ex. 1002 ¶ 72). As a result, Petitioner contends that a skilled artisan would understand that the descriptions of "video-related terms (*e.g.*, television, TV, movie, etc.)" are referring to video content from which an audio component is captured, sampled, and processed. *Id.* at 27–

[9] Citations to Ex. 1011, which is the file history of the '330 application, that reference the application itself may be accompanied by an indication of the cited paragraph of that application.

28 (citing Ex. 1002 ¶ 73; Ex. 1011, 580–581 (¶¶ 17–19), 582–583 (¶¶ 22–23), 586–588 (¶¶ 29–32), 594 (¶ 49)).

Patent Owner responds by asserting that the '330 application "expressly teaches that the invention applies to both audio- and **video** sample-based content recognition systems." Prelim. Resp. 7. Patent Owner states that the '330 application "plainly teaches that the invention applies 'robust' and '**existing**' 'audio or **video** data sample' content recognition systems, which the invention improves upon by using 'data exogenous to a particular' sample to deduce additional information about audience members' consumption habits (e.g., the identity of the channel that the media content is being consumed on)" and, "[c]onsistent with this disclosure," Patent Owner contends that the application broadly describes the disclosed invention as applying to "'media sample[s]' (i.e., 'audio or **video** data sample[s]')." *Id.*

Patent Owner characterizes the '330 application as being "agnostic as to whether the content identification results are generated based on an audio or video data sample, because the technological novelty lies in the use of additional data to discern useful information beyond that generated by existing content recognition systems." *Id.* Stated another way, Patent Owner contends "the novel aspects" described in the '330 application "utilize content identification results in the same way, whether those results are generated based on audio or video data samples." *Id.* Similarly, Patent Owner contends that "[e]ven a cursory review of the '849 [p]atent and challenged claims reveals that the system used to obtain a content identification result is incidental to the claimed invention—the novelty lies in what the claimed invention does with the results obtained using existing, well-known content recognition systems." *Id.* at 8–9.

Turning to the description in the '330 application, Patent Owner contends that it demonstrates possession of the inventions claimed in the '849 patent to a skilled artisan who "comes to the patent with the knowledge of what has come before." Prelim. Resp. 14–15 (quoting *LizardTech, Inc. v. Earth Res. Mapping, Inc.*, 424 F.3d 1336, 1345 (Fed. Cir. 2005) (quote corrected to original)). Included in such knowledge, Patent Owner contends, are "**existing content recognition** technologies" that are improved through a "**media** measurement context" that "provides opportunities to utilize data **exogenous** to a particular **audio or video sample**," as stated in the description of the background in the '330 application. *Id.* at 15, 20, 28 (quoting Ex. 1011, 578 (¶ 5)).

Viewed through that background, Patent Owner asserts that the techniques for analyzing content recognition results with additional data to determine media consumption habits are operable with such existing content recognition technologies that are expressly disclosed to be applicable to both audio and video samples. Prelim. Resp. 15–16, 20–21 (citing Ex. 2001 ¶¶ 64–65; Ex. 1011, 578 (¶ 5), 584 (¶ 25)). Patent Owner highlights the summary of the invention in the '330 application, which describes the invention as applying to "media samples," which in the context of the aforementioned background, refers to audio and video samples. *Id.* at 16, 21–22 (citing Ex. 1011, 584–585 (¶ 25); Ex. 2001, ¶¶ 67–69). Patent Owner points to the '330 application's use of both audio ("song," "album," "radio") and video ("movie," "TVpgrm") identifiers as exemplifying the identical treatment of video and audio data in its described process. *Id.* at 33–36 (citing Ex. 1011, Figs. 4–5, 590–91 (¶¶ 40–43), 593–95 (¶¶ 47–52); Ex. 2001 ¶ 97). Patent Owner further notes that each of these content types

in the Play List is referred as "media consumption." *Id.* at 34–35 (citing Ex. 1011, 594 (¶ 50)).

Patent Owner argues that a person of ordinary skill in the art at the pertinent time would have understood content recognition of "media" to include both audio and video, citing numerous references disclosing both audio- and video-sample-based content recognition. Prelim. Resp. 22–26 (citing Ex. 2001 ¶¶ 69–73; Exs. 2005–2033). Patent Owner argues that these references show that "both audio and video fingerprinting operate in fundamentally the same way, and they are typically described together without distinction." *Id.* at 24–25 (citing Ex. 2001 ¶¶ 74–76), 26–27 (citing Ex. 2001 ¶ 84). Patent Owner further highlights that Exhibits 2024 and 2026, discussing both audio and video sample-based recognition, were expressly cited in the '330 application as examples of content recognition. *Id.* at 31 (citing Ex. 1011, 584–85 (¶ 25)).

Based upon intrinsic and extrinsic evidence presented from the '330 application, Patent Owner contends that a skilled artisan would understand that "media" refers to both audio and video, and that "media samples" refers to both audio samples and video samples. Prelim. Resp. 29.

Having considered the evidence and arguments by both parties, we find that the '330 application provides sufficient written description support to reasonably convey to a skilled artisan that the inventors were in possession of the subject matter of the challenged claims of the '849 patent. Central to this issue is the description in the '330 application of "media," in the form of a "media sample" in a "media measurement system." Ex. 1011, 578 (¶ 6). Petitioner would limit this media to the audio because the '330 application describes "only embodiments based on **audio**" and because only

audio data processing is described in detail in the '330 application. Pet. 22–23. But the '330 application describes numerous embodiments:

> Some embodiments of the present invention provide a media measurement system and method that enhances recognition (e.g. in terms of accuracy or efficiency) of the content of a media sample by analyzing information exogenous to the sample. Some embodiments of the present invention provide a media measurement system and method that utilizes audience data to enhance content identifications. Some embodiments analyze media player log data to enhance content identification.

Ex. 1011, 578 (¶ 6). Only one of the eight described embodiments is expressly limited to audio forms of media—"Yet other embodiments provide . . . a media monitoring device . . . adapted to receive [an] . . . audio signal from a media player." *Id.* at 578 (¶ 6), 580–81 (¶¶ 16–19), 583 (¶ 23), 586–88 (¶¶ 29–31, 33).

The embodiments in the '330 application are not expressly limited to audio data processing. For example, the type of content being received includes "media files" such as a "movie," a "television show," or a "video game." *Id.* at 582–83 (¶ 22). Identification of the content may use a "media player log file," or "media consumption patterns." *Id.* at 583–84 (¶ 24). Although Petitioner points specifically to "generating a raw play stream . . . including a sequence of content recognitions results" as being described only with respect to audio, we do not find the description to be limited to audio. Ex. 1011, 585 (¶ 26). The content recognition system 124 is "adapted to implement one or more known content recognition methods that identify content by extracting parameters from a media signal." *Id.* at 584–85 (¶ 25). One of those known examples of prior art algorithms is titled "Fingerprinting *Multimedia* Contents." *Id.* at 585 (¶ 585) (emphasis added). The play stream is described as having content IDs associated with "media

content," such as "movie81" and "TV program segment." *Id.* at 591, 593 (¶¶ 42, 48). The discussion of various media types at multiple steps of the described process indicates that "generating a raw play stream . . . including a sequence of content recognitions results" is reasonably understood to include each of those media types. Ex. 1011, 585 (¶ 26).

In addition, some of the claims originally-filed with the '330 application are directed to media, as distinguished from other originally-filed claims directed to audio. *Compare* Ex. 1011, 608–609 (claims 61 and 62 "attempting identification of a media sample") *with id.* at 600 (claim 1 limited to "identification of a sample" where the sample corresponds to "audio data"). As the Federal Circuit has explained, "original claims are part of the specification and in many cases will satisfy the written description requirement." *Scriptpro LLC v. Innovation Associates, Inc.*, 833 F.3d 1336, 1341 (Fed. Cir. 2016).

The '330 application further states that "the present invention is not intended to be limited to the embodiments shown, but is to be accorded the widest scope consistent with the principles and features disclosed herein." *Id.* at 580 (¶ 15). This "widest scope" has not been shown to be limited solely to the one embodiment based upon audio signals; instead, it extends to "media sample[s]" as described in the original claims, the description of the invention and in described embodiments.

The '330 application shows that known media content recognition techniques include both audio and video. *See Capon v. Eshhar*, 418 F.3d 1349, 1357–58 (Fed. Cir. 2005) ("The 'written description' requirement must be applied in the context of the particular invention and the state of the knowledge [in the field]."). The '330 application describes the state of the "media measurement" art as using data "exogenous to a particular audio or

video data sample." Ex. 1011, 578 (¶ 5). This demonstrates that the inventor of the '330 patent considered the term "media" to include both audio and video and that the invention pertains to both audio and video data samples.[10]

Petitioner's declarant, Timothy Wahlers, provides no contrary testimony to show a different understanding of "media" content recognition by a person having ordinary skill in the art at the pertinent time. Mr. Wahlers focuses on the relative amount of discussion given to audio and video techniques in the '330 application, providing counts of the term audio ("37 times") and video ("only 4 times"). Ex. 1002 ¶ 72. However, the pertinent issue is whether the '330 application discloses media samples that include "video data samples" as recited and used in the claims of the '849 patent. So long as the '330 application adequately describes the claimed video data samples, additional description of audio data samples does not undermine Patent Owner's showing of written description.

Mr. Wahlers also focuses on the detailed description of an audio content recognition device in one of the embodiments of the '330 application. Ex. 1002 ¶¶ 74–75 (citing Ex. 1011, 577 (¶ 2), 578 (¶ 6),

[10] In another case involving U.S. Patent No. 10,719,848 B2 (a relative of the '849 patent), the Board considered whether the use of the term "media" in a provisional application of an asserted prior art reference (US 2005/0193016), both of which are unrelated to the references relied on by Patent Owner here, provided written description support for a claim that recited both audio and video. *Roku, Inc. v. Anonymous Media Research Holdings, LLC*, IPR2024-01057, Paper 10 at 12–16 (PTAB Feb. 10, 2025). In that decision, the Board determined that it did not provide written description support for video, but we reached that conclusion because the provisional application explicitly "define[d] the claim term media exclusively as audio" and described the invention as addressing challenges specific to "audio identification." *Id.* at 14–15.

580 (¶ 17), 584–585 (¶ 25)). Mr. Wahlers opines that such descriptions of "a system that relies on capturing audio" would not be interchangeable with "embodiments that instead use video data." *Id.* ¶¶ 75–76. However, each of these descriptions is stated to be an example rather than limiting the scope of the description. *See* Ex. 1011, 577 (¶ 2) ("for example,"), 578 (¶ 6) ("Other embodiments provide"), 580 (¶¶ 16–17) ("an exemplary media usage monitoring system 1000"), 584–585 (¶ 25) ("e.g."). These descriptions of an audio embodiment do not lessen the broader description of media that includes video data.

Nor does Mr. Wahlers directly address the state of the media content recognition art. Mr. Wahlers states that the '330 application "provides no corresponding disclosures describing how difficulties unique to the video context are addressed." Ex. 1002 ¶¶ 71, 76. However, neither Petitioner nor Mr. Wahlers sufficiently explains how such alleged difficulties cause any claims in the '849 patent to lack adequate disclosure, or how the state of the art would have required any particular additional disclosure to adequately describe the claimed invention.

Petitioner also advances the argument that the descriptions of television, DVD, video, and other media types are limited to the audio characteristics of that signal. Pet. 23–24. Petitioner and Mr. Wahlers state that "it is unclear" if "video data sample" (Ex. 1011, 578 (¶ 5)) conveys sampling video data, or if it conveys sampling audio data associated with a video. *Id.* at 23 (citing Ex. 1002 ¶ 72). We disagree. As discussed above, the '330 application demonstrates that the invention pertains to sampling both audio and video data.

Mr. Wahlers' testimony supporting an audio-only interpretation of "video data" is based on the number of mentions of "audio" and on details

from an audio embodiment. Ex. 1002 ¶¶ 72–73. As discussed above, the number of times a particular embodiment is mentioned does not outweigh descriptions of other embodiments or the broader description of the invention. Regarding the audio embodiment details cited by Mr. Wahlers, these focus on specific hardware (headphones 160b, media player port 102) or audio data (audio energy, a sound associated with screen refresh on a television, a TV ad being listened to). *Id.* at 73. Mr. Wahlers' conclusion is based upon these described audio features, but it does not explain why the broader descriptions of "media" involved in the described process would have been understood as excluding "video data." Mr. Hoarty reaches the opposite conclusion, which is based upon the knowledge of a skilled artisan at the time of the invention. Ex. 2001 ¶ 109. Based upon the entirety of the record, Petitioner has not shown that the "video data sample" described in the '330 application (Ex. 1011, 578 (¶ 5)) would have been understood as relating only to the audio data sample associated with a video stream.

For the foregoing reasons, we find that the claims of the '849 patent are sufficiently supported by the written description in the '330 application. Because the other nonprovisional applications creating a chain of priority from the '330 application to the '849 patent contain at least the same disclosure as the '330 application (Pet. 25), the challenged claims of the '849 patent should be given the benefit of the effective filing date of the '330 application. Therefore, we determine that the challenged claims of the '849 patent are entitled to priority no later than May 26, 2005, the filing date of the '330 application.

2. Steuer750, Steuer622, and Neumeier Are Not Prior Art

Petitioner contends that Steuer750 "qualifies as prior art at least under pre-AIA § 102(b)" because it was published on December 1, 2005. However, because we have determined that the challenged claims of the '849 patent are entitled to priority dating back to no later than May 26, 2005, we find Steuer750 does not qualify as prior art.

Petitioner contends that Steuer622 "qualifies as prior art at least under AIA § 102(a)(1)" because it issued June 17, 2014. However, because we have determined that the challenged claims of the '849 patent are entitled to priority dating back to no later than May 26, 2005, we find Steuer622 does not qualify as prior art.

Finally, Petitioner contends that Neumeier "qualifies as prior art at least under pre-AIA § 102(e)" because it issued December 2, 2010. However, because we have determined that the challenged claims of the '849 patent are entitled to priority dating back to no later than May 26, 2005, we find Steuer622 does not qualify as prior art.

3. Conclusion

For the reasons discussed above, Steuer750, Steuer622, and Neumeier are not prior art to the challenged claims and, as a result, Petitioner's obviousness contentions based on those references do not have a reasonable likelihood of prevailing to show claims 1–13 are unpatentable. Accordingly, we find there to be an insufficient basis for instituting an *inter partes* review of the '849 patent.

E. Petitioner's Motion Regarding Other Matters

Petitioner filed a motion requesting the Board exercise exclusive jurisdiction over other USPTO matters involving the '848 patent, including a

request by Patent Owner for a Certificate of Correction, and to order that Patent Owner not file further papers in such matters, and to require Patent Owner to submit all briefing relating to these issues to the USPTO's Certificates of Correction Branch and Petitions Branch. Paper 9, 1–2. Patent Owner opposed this motion. Paper 12.

Because we determine that no *inter partes* review will be instituted on IPR2024-01350, we find it unnecessary to exercise exclusive jurisdiction over the '849 patent. *See* Paper 9, 9. Therefore, Petitioner's motion for the Board to exercise exclusive jurisdiction over the '849 patent is denied.

Petitioner further requests that all briefing in this proceeding be provided to the Certificates of Correction and Petitions branches for their consideration, citing Patent Owner's "duties of candor and good faith." *Id.* at 2, 10. However, in view of our determination not to institute review in this proceeding, we defer to the Certificates of Correction and Petitions branches to carry out their duly authorized duties. *Honeywell Int'l Inc. v. Arkema Inc.*, 939 F.3d 1345, 1349 (Fed. Cir. 2019).

IV. ORDER

For the foregoing reasons, it is:

ORDERED that pursuant to 35 U.S.C. § 314(a), no *inter partes* review is instituted for U.S. Patent 10,719,849 B2, and

ORDERED that Petitioner's Motion Seeking Relief Regarding Patent Owner's Certificate of Correction is DENIED.

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