UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. and AMAZON WEB SERVICES, INC.,[1]
Petitioner,

v.

ZIKLAG IP LLC,
Patent Owner.

Case IPR2025-00700
Patent No. 6,182,128

PATENT OWNER'S RESPONSE TO PETITIONER'S AUTHORIZED POST-SUR-REPLY CLAIM CONSTRUCTION BRIEF

[1] Amazon Web Services, Inc. filed a petition and a motion for joinder in IPR2026-00047 and has been joined as a petitioner in this proceeding.

I. INTRODUCTION

Ziklag IP LLC ("Patent Owner") submits this Response to Petitioner's Authorized Post-Sur-Reply Claim Construction Brief ("Apple Authorized Brief", Paper 24) pursuant to the Board's Conduct of the Proceedings Order. See Paper 23. First, Petitioner's brief fails to address the actual meaning that should be given the claim term "substantially real time". Instead, Petitioner merely posits the specious argument that because the words "real time" appear in Yurt, they must mean the same thing as "substantially real time" in the claims of the '128 patent, and "no construction is necessary". See Apple Authorized Brief at 2. Second, Petitioner dodges the matter of claim construction entirely and rehashes its erroneous merits argument. Petitioner's conclusory contention that Yurt's teachings about transmitting audio data at least in real time for immediate viewing as it is being distributed is dispositive regarding transmitting in "substantially real time" is incorrect. *Id.* Lastly, the majority of Petitioner's brief recycles arguments and unsupported assertions previously presented in its motion to strike (Paper 20). *Id.* at 3-5.

Patent Owner disputes Petitioner's contention that "substantially real time", as properly understood in the context of the '128 patent, is rendered obvious by Yurt.[2] As

[2] The Yurt patent is substantially the same as the Verbiest reference (EX2001) relied on by the Examiner in the original prosecution of the '128 patent. The Yurt patent was cited as prior art to the Verbiest patent during prosecution of the Verbiest patent. Petitioner relies on the same arguments made by the Examiner when citing Verbiest, but which were ultimately overcome during prosecution of the '128 patent.

Patent Owner has previously pointed out, "substantially real time" requires a proper construction because Petitioner erroneously equates bulk "fraction of real time" delivery with streaming-like sequential playback. See Patent Owner's Response at 23 (Paper 11). The ’128 patent discloses and teaches a novel architectural system committed to active, distributed orchestration (i.e., sequential transmission in substantially real time) -- not passive distribution as disclosed by Yurt. *Id.* at 24.

II. “SUBSTANTIALLY REAL TIME” IN THE '128 PATENT DOES NOT MEAN THE SAME AS "REAL TIME" IN YURT

Petitioner has asserted a single ground for invalidating Challenged claims 1-4, 6, 9-14 and 17, namely, that these claims of the ‘128 patent are obvious based on Yurt in view of Logan. Petitioner erroneously argues that the patent claims at issue are directed to playback timing alone. See Petitioner's Reply to Patent Owner's Response ("Reply", Paper 14). Patent Owner has consistently maintained that the claims need to be understood in the proper context, namely the broader distributed, request-driven system architecture previously discussed in the Patent Owner's Response to Petition for Inter Partes Review ("POR", Paper 11).[3]

Petitioner's playback-only argument mischaracterizes the nature of the patent claims at issue by ignoring the surrounding context of the patented invention involving system

[3] *See, e.g.,* POR at 3, 4, 7, 16, 19-20, 24, 27, 29-32; EX2009, McCulloh Decl. ¶¶ 12, 14, 26, 30; and EX2007, Johnson Decl. ¶¶ 24, 25, 29-30, 34, 37, 39, 44, 48-49.

architecture and behavior. Patent Owner's position has consistently been that Yurt describes a fundamentally different delivery architecture than the distributed routing system claimed in the '128 patent. Yurt does not teach or suggest employing "sequentially transmitting said requested digital audio files in substantially real time" using cable bandwidth to enable immediate playback. Patent Owners Response at 26 (Paper 11).

Regarding the Yurt prior art reference, even assuming Yurt permits some playback before full transfer is complete, Yurt still fundamentally operates as a download / buffer / decompress model centered on local receipt and local playback from the receiving device. As shown in the Yurt patent, the claimed Yurt invention certainly could not deliver computer encoded video content in real time, and instead it relies on compressed file formats, that would then have to be buffered and decompressed. See EX1005, 4:64-5:9. Yurt does not disclose distributing files through "sequential transmission...in substantially real time" which is described and claimed in the '128 patent.

Patent Owner's U.S. Patent 6,182,128 focuses on and addresses a particular problem unsolved as of 1998: how to deliver digital audio content in substantially real time to large numbers of users over existing hybrid fiber-coax cable networks, while simultaneously capturing user-specific selection data for marketing, billing, and personalized recommendations. The '128 patent describes a system configured to provide a specific architecture: (1) request-driven locating of content; (2) routing across distributed systems; and (3) playback occurring while transmission/routing continues. Yurt describes a

fundamentally different delivery model centered on local receipt and decompression of transmitted file data—not the distributed request-driven routing and concurrent delivery architecture claimed in the ’128 patent. Thus, the claimed system employing substantially real-time sequential transmission is fundamentally different from Yurt's local download / decompression architecture.

Petitioner repeatedly argues that “substantially real time” is satisfied merely because playback may occur while transmission is still ongoing. The "substantially real time" limitation, however, cannot be divorced from the surrounding claim language and claimed distributed, request-driven system architecture discussed throughout the '128 patent. The patent claims at issue are not directed to playback timing alone.

III. CONCLUSION

The Board should apply the meaning of "substantially real time" proffered by Patent Owner and reject Petitioner's arguments that no construction is necessary and that Yurt renders the '128 patent claims unpatentable.

DATED: June 11, 2026 Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2026, I caused a true and correct copy of the foregoing materials to be served via the Patent Office electronic filing system, and electronic service via email to the following attorneys of record pursuant to Petitioner's consent:

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