

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DISNEY ENTERTAINMENT & SPORTS LLC,
Petitioner

v.

ADEIA GUIDES INC.,
Patent Owner.

Case No. IPR2026-00056
U.S. Patent No. 10,165,324

**DECLARATION OF HENRY HOUH IN SUPPORT OF PETITION FOR
INTER PARTES REVIEW OF U.S. PATENT NO. 10,165,324**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. BACKGROUND AND QUALIFICATIONS	2
III. INFORMATION CONSIDERED	8
IV. RELEVANT LEGAL STANDARDS	8
A. Claim Interpretation	8
B. Perspective of One of Ordinary Skill in the Art.....	9
C. Obviousness.....	9
V. LEVEL OF ORDINARY SKILL IN THE ART	12
VI. SUMMARY OF MY OPINIONS	13
VII. TECHNOLOGICAL BACKGROUND	14
A. Presenting media content based on a user's viewing progress within serial programs on user equipment and determining a progress point in a serial program based on the user's viewing progress.....	14
B. Creating and storing a media profile comprising a user's viewing progress within serial programs	18
C. Generating for display on a display screen adjacent user- selectable links corresponding to progress points in serial programs	20
D. Selecting the user-selectable links causes the serial programs to be generated for display at the progress points	25
E. Associating the links with a plurality of cells and arranging them in rows and columns.....	27
F. Automatically presenting an unwatched episode in the serial program in response to a user's selection of a link	28
G. Presenting a summary region associated with the serial program, which indicates a predefined viewing order.....	31
VIII. THE '324 PATENT AND ITS FILE HISTORY	31
IX. CLAIM CONSTRUCTION	36

TABLE OF CONTENTS

(continued)

	Page
A. “[First/second] progress point” (Claim 1).....	36
B. “Serial program” (Claims 1, 4-6).....	36
C. “The summary region” (Claim 6).....	37
X. OVERVIEW OF THE APPLIED PRIOR ART REFERENCES	37
A. Tecot (Ex-1006)	37
B. Logan (Ex-1005)	38
C. Lee (Ex-1008).....	41
D. McElhatten (Ex-1010).....	42
E. Poslinski (Ex-1007).....	45
XI. DETAILED EXPLANATION OF THE UNPATENTABILITY GROUNDS	46
A. Ground 1: Claims 1-5 are obvious over Tecot in view of Lee.....	46
1. A POSITA would have been motivated to combine Tecot’s teachings with Lee’s teachings and would have had a reasonable expectation of success.	46
2. Independent Claim 1	51
a. Element 1[pre]: A method for presenting media content based on a user’s viewing progress within serial programs on user equipment, the method comprising:	51
b. Element 1[a][1]: creating, using control circuitry, a media profile comprising a first viewing progress within a first serial program and.....	53
c. Element 1[a][2]: a second viewing progress within a second serial program;	59
d. Element 1[b]: storing the media profile in a storage device;	60
e. Element 1[c][1]: determining, using the control circuitry, a first progress point in the first serial program based on the first viewing progress and.....	62

TABLE OF CONTENTS

(continued)

	Page
f. Element 1[c][2]: a second progress point in the second serial program based on the second viewing progress;.....	65
g. Element 1[d][1]: generating for display, on a display screen, a first user-selectable link corresponding to the first progress point in the first serial program	65
h. Element 1[d][2]: adjacent to a second user-selectable link corresponding to the second progress point in the second serial program, ...	70
i. Element 1[d][3]: wherein selecting the first user-selectable link causes a first option for generating display the first serial program at the first progress point to be displayed, and	72
j. Element 1[d][4]: wherein selecting the second user-selectable link causes a second option for generating for display the second serial program at the second progress point to be displayed;	75
k. Element 1[e][1]: receiving a user selection of the first link;.....	75
l. Element 1[e][2]: in response to receiving the user selection of the first link, generating for display the first option;.....	76
m. Element 1[e][3]: receiving a user selection of the first option; and.....	78
n. Element 1[f]: in response to receiving the user selection of the first option, generating for display the serial program at the first progress point.	78
3. Dependent Claims 2-5.....	79
a. Claim 2: The method of claim 1, wherein the first link and the second link are associated with a first cell and a second cell, respectively.....	79

TABLE OF CONTENTS

(continued)

	Page
b. Claim 3: The method of claim 2, wherein the first cell and the second cell are included in a plurality of cells, wherein the plurality of cells are arranged in rows and columns. c. Claim 4: The method of claim 1, further comprising automatically presenting an unwatched episode in the first serial program in response to a user selecting the first link. d. Claim 5: The method of claim 1, further comprising presenting a summary region associated with the first serial program.	81
B. Ground 2: Claim 6 is obvious over Tecot-Lee in view of McElhatten. 1. Dependent Claim 6: The method of claim 1, wherein the summary region indicates a predefined viewing order for the first serial program.	89
C. Ground 3: Claims 1-5 are obvious over Logan in view of Poslinski. 1. A POSITA would have been motivated to combine Logan’s teachings with Poslinski’s teachings and would have had a reasonable expectation of success. 2. Independent Claim 1 a. Element 1[pre]: A method for presenting media content based on a user’s viewing progress within serial programs on user equipment, the method comprising: b. Element 1[a][1]: creating, using control circuitry, a media profile comprising a first viewing progress within a first serial program and..... c. Element 1[a][2]: a second viewing progress within a second serial program;	95
	99
	99
	101
	104

TABLE OF CONTENTS

(continued)

	Page
d. Element 1[b]: storing the media profile in a storage device;.....	106
e. Element 1[c][1]: determining, using the control circuitry, a first progress point in the first serial program based on the first viewing progress and.....	108
f. Element 1[c][2]: a second progress point in the second serial program based on the second viewing progress;.....	109
g. Element 1[d][1]: generating for display, on a display screen, a first user-selectable link corresponding to the first progress point in the first serial program	112
h. Element 1[d][2]: adjacent to a second user-selectable link corresponding to the second progress point in the second serial program,.....	116
i. Element 1[d][3]: wherein selecting the first user-selectable link causes a first option for generating for display the first serial program at the first progress point to be displayed, and	119
j. Element 1[d][4]: wherein selecting the second user-selectable link causes a second option for generating for display the second serial program at the second progress point to be displayed;.....	120
k. Element 1[e][1]: receiving a user selection of the first link;.....	122
l. Element 1[e][2]: in response to receiving the user selection of the first link, generating for display the first option;.....	123
m. Element 1[e][3]: receiving a user selection of the first option; and.....	124
n. Element 1[f]: in response to receiving the user selection of the first option, generating for display the first serial program at the first progress point.	124

TABLE OF CONTENTS
(continued)

	Page
3. Dependent Claims 2-5.....	126
a. Claim 2: The method of claim 1, wherein the first link and the second link are associated with a first cell and a second cell, respectively.....	126
b. Claim 3: The method of claim 2, wherein the first cell and the second cell are included in a plurality of cells, wherein the plurality of cells are arranged in rows and columns.	128
c. Claim 4: The method of claim 1, further comprising automatically presenting an unwatched episode in the first serial program in response to a user selecting the first link.....	131
d. Claim 5: The method of claim 1, further comprising presenting a summary region associated with the first serial program.....	132
D. Ground 4: Claim 6 is obvious over Logan-Poslinski in view of McElhatten.	133
1. Dependent Claim 6: The method of claim 1, wherein the summary region indicates a predefined viewing order for the first serial program.....	133
XII. CONCLUSION.....	137

LIST OF EXHIBITS

Ex. No.	Description
Ex-1001	U.S. Patent No. 10,165,324 (“the ’324 Patent”)
Ex-1002	Declaration of Dr. Henry Houh
Ex-1003	Curriculum Vitae of Dr. Henry Houh
Ex-1004	Prosecution History of U.S. Patent No. 10,165,324
Ex-1005	U.S. Patent No. 5,732,216 to Logan (“Logan”)
Ex-1006	U.S. Patent Publication No. 2005/0097623 to Tecot (“Tecot”)
Ex-1007	U.S. Patent Publication No. 2006/0048184 to Poslinski (“Poslinski”)
Ex-1008	U.S. Patent No. 7,127,735 to Lee (“Lee”)
Ex-1009	INTENTIONALLY LEFT BLANK
Ex-1010	U.S. Patent Publication No. 2003/0220100 to McElhatten (“McElhatten”)
Ex-1011	INTENTIONALLY LEFT BLANK
Ex-1012	INTENTIONALLY LEFT BLANK
Ex-1013	INTENTIONALLY LEFT BLANK
Ex-1014	INTENTIONALLY LEFT BLANK
Ex-1015	INTENTIONALLY LEFT BLANK
Ex-1016	INTENTIONALLY LEFT BLANK
Ex-1017	INTENTIONALLY LEFT BLANK
Ex-1018	INTENTIONALLY LEFT BLANK
Ex-1019	INTENTIONALLY LEFT BLANK

Ex. No.	Description
Ex-1020	Claim Mapping Table
Ex-1021	U.S. Patent Publication No. 2004/0128317 to Sull (“Sull”)
Ex-1022	U.S. Patent Publication No. 2006/0010467 to Segel (“Segel”)
Ex-1023	U.S. Patent Publication No. 2003/0067554 to Klarfeld (“Klarfeld”)
Ex-1024	U.S. Patent No. 7,836,473 to Tecot (“Tecot’473”)
Ex-1025	U.S. Patent Publication No. 2003/0208767 to Williamson (“Williamson”)
Ex-1026	U.S. Patent Publication No. 2002/0174430 to Ellis (“Ellis”)
Ex-1027	U.S. Patent Publication No. 2003/0023427 to Cassin (“Cassin”)
Ex-1028	U.S. Patent Publication No. 2003/0149988 to Ellis (“Ellis-2”)
Ex-1029	U.S. Patent Publication No. 2004/0154039 to Simms (“Simms”)
Ex-1030	U.S. Patent Publication No. 2005/0251827 to Ellis (“Ellis-4”)
Ex-1031	U.S. Patent No. 7,747,132 to Poslinski (“Poslinski’132”)
Ex-1032	U.S. Patent Publication No. 2002/0144264 to Broadus (“Broadus”)
Ex-1033	U.S. Patent Publication No. 2005/0050103 to Kesteloot (“Kesteloot”)
Ex-1034	U.S. Patent Publication No. 2008/0320523 to Morris (“Morris”)
Ex-1035	U.S. Patent Publication No. 2001/0010094 to Moir (“Moir”)
Ex-1036	U.S. Patent Publication No. 2005/0273815 to Orr (“Orr”)
Ex-1037	U.S. Patent Publication No. 2005/0283810 to Ellis (“Ellis-3”)
Ex-1038	U.S. Patent Publication No. 2006/0248557 to Stark (“Stark”)

Ex. No.	Description
Ex-1039	IMDB, Episode listing for Reading Rainbow, Season 1 (1983), available at https://www.imdb.com/title/tt0085075/episodes/?season=1&ref_=tt_eps_sn_1
Ex-1040	IMDB, Episode listing for General Hospital, Season 1 (1963), available at https://www.imdb.com/title/tt0056758/episodes/?year=1963&ref_=tt_eps_yr_1963
Ex-1041	INTENTIONALLY LEFT BLANK
Ex-1042	Terry Ulick, Windows XP Media Center Edition (2005)
Ex-1043	Prosecution history of U.S. Patent No. 9,860,595
Ex-1044	<i>Adeia Techs., Inc. v. The Walt Disney Co.</i> , No. 1:24-cv-01231, Defendants' Supplemental Disclosure of Proposed Claim Constructions (D. Del. Sept. 16, 2025)
Ex-1045	<i>Adeia Techs., Inc. v. The Walt Disney Co.</i> , No. 1:24-cv-01231, Plaintiffs' Initial Proposed Claim Constructions (D. Del. Sept. 5, 2025)

I. INTRODUCTION

1. My name is Henry Houh. I am presently an independent technical consultant with extensive experience in the field of web based systems, streaming multimedia systems, distributed systems, and network architectures.

2. I have been retained to provide this Declaration by Disney Entertainment & Sports LLC (“Petitioner”) as an independent expert consultant in this *inter partes* review (“IPR”) proceeding before the United States Patent and Trademark Office (“PTO”).

3. I have been asked by Petitioner Counsel (“Counsel”) to consider whether certain references disclose, teach and/or suggest the features recited in Claims 1-6 of U.S. Patent No. 10,165,324 (“the ’324 Patent”) (Ex-1001), which I understand is currently assigned to currently assigned to Adeia Guides Inc. (“PO”). My opinions and the bases for my opinions are set forth below.

4. I am being compensated at my ordinary and customary consulting rate for my work, which is \$820 per hour. My compensation is in no way contingent on the nature of my findings, the presentation of my findings in testimony, or the outcome of this or any other proceeding. I have no other direct financial interest in this proceeding.

II. BACKGROUND AND QUALIFICATIONS

5. I have a Bachelor of Science Degree in Electrical Engineering and Computer Science from Massachusetts Institute of Technology (MIT), which I received in June 1989. I also have a Bachelor of Science Degree in Physics from MIT which I received in February 1990. I have a Master of Science Degree in Electrical Engineering and Computer Science from MIT which I received in February 1991. I have a PhD in Electrical Engineering and Computer Science from MIT which I received in February 1998. My thesis was directed to “Designing Networks for Tomorrow’s Traffic,” and was supervised by Professor David Tennenhouse and Professor John Guttag.

6. My professional career has spanned more than 25 years. As set forth in my curriculum vitae, a copy of which is appended to this note, during these years I have gained extensive experience in web sites, communications systems, networking, distributed systems, protocols and streaming audio/video communications.

7. I first entered telecommunications in 1987 when I worked as a summer intern at AT&T Bell Laboratories as part of a five-year dual degree program at MIT. I continued to work at AT&T Bell Laboratories as part of this MIT program. While at MIT, I was a teaching assistant (“TA”) in the Electrical Engineering and Computer Science Department’s core Computer Architectures course. I first was a TA as a

senior for a role typically reserved for graduate students. I later became head TA. The course covered various topics in computer architectures. As a TA, I helped write homework assignments, lab assignments, and exams. I also taught in the recitation sections.

8. Later, as part of my doctoral research at MIT from 1991-1998, I was a research assistant in the Telemedia Network Systems (“TNS”) group at the Laboratory for Computer Science. The TNS group built a high-speed gigabit network and created applications that ran over the network. Example applications included ones for remote video capture, processing, and display of video on computer terminals. In addition to working on the design of core network components (which was based on FPGAs), designing and building the high-speed links (which included programmable logic devices), and designing and writing the device drivers for the interface cards (which included programmable logic devices), I also set up the group’s web server. Also, I helped to maintain, install, and upgrade the networking devices used within the group, along with other graduate students. When I started with the TNS group, the networking infrastructure consisted of shared coaxial cable-based Ethernet, with bridges and repeaters interconnecting various network segments. I became familiar with the Ethernet specifications in order that we not configure our network improperly, typically by chaining too many repeaters together. We gradually replaced the coaxial Ethernet infrastructure with

twisted pair 10BASE-T wiring that were interconnect via hub repeaters, for which we also had to mind the Ethernet specifications. Eventually, many of the hub repeaters were upgrade to switches. I also studied the various parts of the Ethernet specifications both independently and through graduate course work in networking.

9. I also helped to build the web pages that initiated the above-mentioned video sessions via a web interface. Vice President Al Gore visited our group in 1996 and received a demonstration of—and remotely drove—a radio-controlled toy car with a wireless video camera mounted on it that was built by our group. This toy car device received commands transmitted over a network from a remote computer, and video data from the toy car was transmitted wirelessly then over a computer network back to the user controller. On occasion, we allowed users visiting our web site to drive the toy car from their remote computer while they watched the video on their computer. The video stream was encoded by TNS-designed hardware, streamed over the TNS-designed network, and displayed using TNS-designed software.

10. I defended and submitted my Ph.D. thesis, titled “Designing Networks for Tomorrow’s Traffic,” in January 1998. As part of my thesis research, I analyzed local area and wide area flows to show a more efficient method for routing packets in a network, based on traffic patterns at the time. The traffic flow data included Ethernet, IP, TCP or UDP, and RTP header information, which I analyzed to come to the conclusions in my thesis.

11. While I was in graduate school, I started a company that provided web site design services and targeted advertising opportunities. We also sold targeted advertising placements. As the web became popular first at colleges and universities, we focused initially on building college recruiting web sites and sold advertisements to companies wishing to target students to recruit at specific colleges. We developed technology that utilized the web user's college affiliation to customize advertisements targeted to students at that college.

12. From 1997 to 1999, I was a Senior Scientist and Engineer at NBX Corporation, a start-up that made business telephone systems for streaming packetized audio over data networks instead of using traditional telephone lines. NBX was later acquired by 3Com Corporation and the phone system is still used today by numerous businesses.

13. As part of my work at NBX, I designed the core audio reconstruction algorithms for the telephones, as well as the packet transmission algorithms. I also designed and validated the core packet transport protocol used by the phone system. The protocol was used for all signaling in the phone system, including for the setup of conference calls. The NBX system also featured a computer interface for initiating phone calls, which could also initiate conference calls. The NBX system also supported the Telephony Application Programming Interface ("TAPI") that allowed other computer programs to integrate with our system telephony features. We

obtained U.S. Patent No. 6,967,963, entitled “Telecommunication method for ensuring on-time delivery of packets containing time-sensitive data,” as part of this work. The first release of the phones had integrated Ethernet repeater hubs embedded in them, and I worked with the documentation and field support people to develop sets of guidelines so that customers would not build their networks to violate the Ethernet specifications, typically by chaining too many hub repeaters and NBX phones together. The first release of the phones also worked using Ethernet-layer packets (without the use of IP). I also programmed the first prototype of our phone which communicated using IP, and I demonstrated our IP phones working over the Internet when we attended a trade show in California. The phone connected over the Internet to our headquarters in Andover, MA.

14. From 1999-2004, I was employed by Empirix or its predecessor company, Teradyne. Teradyne had traditionally made products to test chips and hardware, but the founder and board chairman, Alex d’Arbeloff wanted to expand the company’s products to include software systems testing. Teradyne made a number of acquisitions to achieve this goal, and I was hired to work for Mr. d’Arbeloff to work with all the acquired software test divisions. These divisions were later spun-out of Teradyne into a separate company, Empirix. Empirix was a leader in test tools for software systems including telecommunications protocols and systems, providing functional testing tools as well as load testing tools. From 2000-

2001, I conceived and built a test platform for testing Voice-over-IP (VoIP). The first application on this new test platform was a cloud emulator for simulating the effects of transmitting VoIP over a busy network. The test platform was based on a network processor chip, which could be programmed to cut-through packets while processing packet data such as various protocol layer headers including addresses included therein and even packet data contents. I also designed a protocol analyzer built on the same platform. The application captured and performed protocol decoding at various layers in the protocol stacks of captured packets, including detailed Ethernet header decoding, IP header decoding, TCP header decoding, UDP header decoding, RTP header decoding, and many other specified protocols. The application was also designed to reconstruct entire conversations that spanned multiple packets.

15. In 2006, as part of my role at BBN Technologies, I helped found PodZinger Inc., now known as RAMP Inc. PodZinger utilized BBN's speech recognition algorithms to search through the spoken words in audio and video segments. While I was Vice President of Operations and Technology, PodZinger followed its initial prototype with a full streaming audio and video search solution. I also created a social networking web site, which BBN sold to a venture-funded startup company. In the process of creating the web site, I designed and specified the authentication and authorization protocols.

III. INFORMATION CONSIDERED

16. In preparation for my Declaration, I have considered the materials I discuss in my Declaration, including, for example, the '324 Patent, the references cited by the '324 Patent, the prosecution history of the '324 Patent (including the references cited therein), various background articles and materials referenced in my Declaration, and the prior art references I identify in my Declaration. In addition, my opinions are further based on my education, training, experience, and knowledge in the relevant field.

IV. RELEVANT LEGAL STANDARDS

17. I am not an attorney and offer no legal opinions. For the purposes of my Declaration, I have been informed about certain aspects of the law that are relevant to my analysis, as summarized below.

A. Claim Interpretation

18. I have been informed and understand that in an IPR proceeding, claims are to be interpreted according to the *Phillips* claim construction standard. I understand that under this standard, the meaning of claim terms is considered from the viewpoint of a hypothetical “person of ordinary skill in the art” (“POSITA”) at the time of the alleged invention. I have been informed and understand that claim construction is a matter of law and that the final claim constructions for this proceeding will be determined by the Patent Trial and Appeal Board (“PTAB”).

19. I provide my opinions regarding terms that may require explicit construction to resolve the grounds I present in my Declaration in Section IX.

B. Perspective of One of Ordinary Skill in the Art

20. I have been informed and understand that a patent is to be understood from the perspective of a hypothetical POSITA. Such an individual is considered to possess normal skills and knowledge in a particular technical field (as opposed to being a genius). I understand that in considering what the claims of a patent require, what was known prior to that patent, what a prior art reference discloses, and whether an invention is obvious or not, one must use the perspective of such a POSITA.

C. Obviousness

21. I have been informed and understand that a patent claim is obvious under 35 U.S.C. §103, and therefore invalid, if the claimed subject matter, as a whole, would have been obvious to a POSITA as of the priority date of the patent based on one or more prior art references and/or the knowledge of a POSITA.

22. I understand that an obviousness analysis must consider (1) the scope and content of the prior art, (2) the differences between the claims and the prior art, (3) the level of ordinary skill in the pertinent art, and (4) secondary considerations, if any, of non-obviousness (such as unexpected results, commercial success, long-felt but unmet need, failure of others, copying by others, and skepticism of experts).

23. I understand that a prior art reference may be combined with other references to disclose each element of the invention under 35 U.S.C. §103. I understand that a reference may also be combined with the knowledge of a POSITA, and that this knowledge may be used to combine multiple references. I further understand that a POSITA is presumed to know the relevant prior art. I understand that the obviousness analysis may take into account the inferences and creative steps that a POSITA would employ.

24. In determining whether a prior art reference would have been combined with other prior art or other information known to a POSITA, I understand that the following principles may be considered:

- a. whether the references to be combined involve non-analogous art;
- b. whether the references to be combined are in different fields of endeavor than the alleged invention in the Patent;
- c. whether the references to be combined are reasonably pertinent to the problems to which the inventions of the Patent are directed;
- d. whether the combination is of familiar elements according to known methods that yields predictable results;
- e. whether a combination involves the substitution of one known element for another that yields predictable results;

- f. whether the combination involves the use of a known technique to improve similar items or methods in the same way that yields predictable results;
- g. whether the combination involves the application of a known technique to a prior art reference that is ready for improvement, to yield predictable results;
- h. whether the combination is “obvious to try”;
- i. whether the combination involves the known work in one field of endeavor prompting variations of it for use in either the same field or a different one based on design incentives or other market forces, where the variations are predictable to a POSITA;
- j. whether there is some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill in the art to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention;
- k. whether the combination requires modifications that render the prior art unsatisfactory for its intended use;
- l. whether the combination requires modifications that change the principle of operation of the reference;
- m. whether the combination is reasonably expected to be a success; and

- n. whether the combination possesses the requisite degree of predictability at the time the invention was made.

25. I understand that in determining whether a combination of prior art references renders a claim obvious, it is helpful to consider whether there is some teaching, suggestion, or motivation to combine the references and a reasonable expectation of success in doing so. I understand, however, that a teaching, suggestion, or motivation to combine is not required.

V. LEVEL OF ORDINARY SKILL IN THE ART

26. I am familiar with the level of ordinary skill in the art with respect to the '324 Patent around its filing date. Based on my experience working, teaching, and conducting research in the relevant field, and based on my review of the '324 Patent specification, claims, file history, and prior art, I believe one of ordinary skill in the art around the time of the alleged invention of the '324 Patent would have had at least a bachelor's degree in electrical engineering, computer science, computer engineering, or a related field, and two-to-three years of experience in the research, design, development, or testing of interactive entertainment streaming technologies, user interfaces, and video platforms, with additional education substituting for experience and vice versa.

27. In determining the level of ordinary skill in the art, I considered, for example, the type of problems encountered in the art, prior art solutions to those

problems, the rapidity with which innovations are made, the sophistication of the technology, and the educational level of active workers in the field.

28. I met or exceeded the knowledge and experience that a POSITA would have had in 2005. I have extensive experience in interactive media environments and streaming media, including in voice and video.

VI. SUMMARY OF MY OPINIONS

29. As I explain below in detail in my Declaration, it is my opinion that Claims 1-6 of the '324 Patent would have been obvious under 35 U.S.C. §103 on the following grounds:

- **Ground 1:** Claims 1-5 are obvious over U.S. Patent Publication No. 2005/0097623 Tecot (“Tecot”) (Ex-1006) in view of U.S. Patent No. 7,127,735 Lee (“Lee”) (Ex-1008).
- **Ground 2:** Claim 6 is obvious over Tecot in view of Lee in further view of U.S. Patent Publication No. 2003/0220100 McElhatten (“McElhatten”) (Ex-1010).
- **Ground 3:** Claims 1-5 are obvious over U.S. Patent No. 5,732,216 (“Logan”) (Ex-1005) in view of U.S. Patent Publication No. 2006/0048184 (“Poslinksi”) (Ex-1007).
- **Ground 4:** Claim 6 is obvious over Logan in view of Poslinski in further view of McElhatten.

VII. TECHNOLOGICAL BACKGROUND

A. Presenting media content based on a user's viewing progress within serial programs on user equipment and determining a progress point in a serial program based on the user's viewing progress

30. Presenting media content based on a user's viewing progress within a serial program on the user's equipment was a known concept by 2005. For example, U.S. Patent Publication No. 2005/0050103 to Kesteloot (Ex-1033, "Kesteloot") teaches that "[i]n an aspect of the invention, a viewer might select a particular selectable content chunk and ask for 'play to be resumed'. When playback is stopped, resume information can be stored with some or all selectable content chunks that contain the just presented content chunk ... this has the effect that the viewer might resume playback of the last viewed content chunk simply by selecting 'resume playback' for a particular selectable content chunk that contains multiple content chunks, individually selectable or not, including the one last viewed. The viewer is not required to remember which content chunk they were last viewing." Ex-1033 ¶¶59-60. Kesteloot's teachings apply to serial programs. For example, Kesteloot teaches that its embodiments may "include a sequence of episodes of a television series, or other series." Ex-1033 ¶¶9, 25 ("a content chunk might be or include an entire season of a television series, an individual episode of that season, and the like"), 61 ("the last viewed content chunk was an episode, among many episodes within a larger selectable content chunk").

31. Determining a progress point in a serial program based on the user's viewing progress was also a known concept by 2005. The Windows XP Media Center Edition from 2005 allowed for users to resume viewing of a recorded show from the point where the user previously viewed to. *See, e.g.*, Ex-1042, 176 (“At this point you can choose to play the show and it will start playing in full-screen mode. If you started playing the event and stopped it at any point, when you return to this screen you will see a Resume button that starts the program at the ‘bookmark’ created when you left the previous viewing.”). For example, U.S. Patent No. 7,747,132 to Poslinski (Ex-1031, “Poslinski’132”) teaches “[a]s shown in FIG. 6, the progress bar may include a progress indicator (123). The progress indicator (123) graphically indicates to the user the location of a frame that is currently being displayed on the display device (115). The frame may correspond to a particular location within a media content file corresponding to the current media content instance. For example, in FIG. 6, the progress indicator (123) indicates that a frame located in the beginning portion of the Seinfeld episode recorded on Jun. 24, 2004 is being displayed.” Ex-1031, 8:49-58. Poslinski’132’s teachings apply to serial programs. *See, e.g.*, Ex-1031, Cl. 30 (“wherein said additional recorded media content instances are episodes in said programming series and are identified by series title”), Fig. 6.

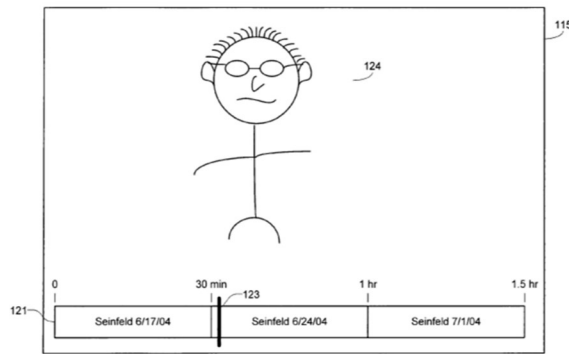


Fig. 6

32. Similarly, U.S. Patent Publication No. 2002/0144264 to (Ex-1032, “Broadus”) teaches “[a] line indicating the current time is displayed across at least a portion of an electronic program guide (EPG). The line is perpendicular to the time axis of the EPG and bisects at least one program element of the EPG into an elapsed portion and a remaining portion, each being proportional in size to the time periods represented thereby. The ratio of the elapsed time to the running time of the program is an indication of the completion status of the program.” Ex-1032, Abstract.

33. U.S. Patent No. 7,836,473 to Tecot (Ex-1024, “Tecot’473”) also teaches “[a]ccording to one exemplary implementation, a method is described for presenting information. The method includes: (a) adding a mark, that is associated with the information, at a source location by activating a marking mechanism; and (b) presenting the information at a destination location based on the mark added at the source location. At least one of steps (a) and (b) involves displaying a visual indicator of the mark at a display position that is related to a time at which the mark was associated with the information.” Ex-1024, 2:10–18.

34. It was also well known that multiple progress points based on a user's viewing progress in multiple serial programs could be determined simultaneously. For example, Poslinski'132 teaches that "[t]he progress bar (121) may also graphically show progression through the recorded episodes as the viewer moves, or navigates, through the episode." Ex-1031 (Poslinski'132), 8:47-49. Similarly, Kesteloot teaches that "[d]etermining the last-watched position in a content chunk ... is more complicated for a content chunk such as a series of episodes ... Default configuration and user preferences are used to determine where a series of episodes is resumed when, for example, the first episode has been watched, the second has not been watched, and five minutes of the third episode has been watched." Ex-1033 (Kesteloot) ¶62. Moreover, U.S. Patent Publication No. 2004/0128317 to Sull (Ex-1021, "Sull") teaches that a user can bookmark the user's viewing progress position in multiple programs simultaneously and the user's video bookmark list is displayed to the user as a selectable list. Ex-1021 ¶167, Fig. 6. Similarly, Tecot'473 teaches, as shown in Figure 10 below, that a user can mark their viewing progress position in multiple serial programs simultaneously and the marked list is displayed to the user as a selectable list. Ex-1024, Fig. 10 (showing "Buddies" Comedy Show and Cooking with Julia in previously marked programs list); *see also id.*, Figs. 11-13.

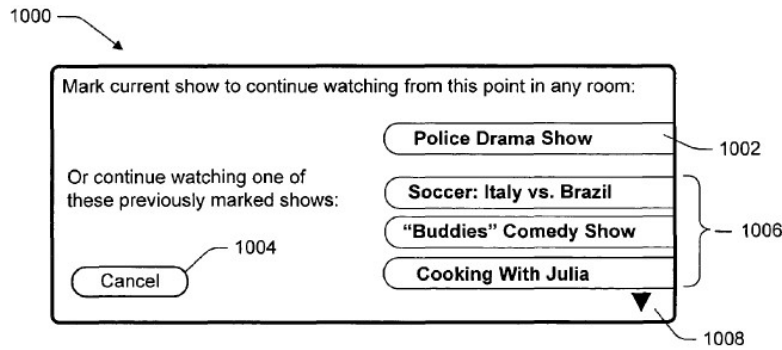


Fig. 10

B. Creating and storing a media profile comprising a user’s viewing progress within serial programs

35. Creating a media profile comprising a user’s viewing progress within serial programs was a known concept by 2005. For example, U.S. Patent Publication No. 2003/0067554 to Klarfeld (Ex-1023, “Klarfeld”) teaches that a “[v]iewer may view and have the capability to modify each individual element of the current created program preference profile Viewer may be shown via a GUI (and text, numerals, graphs, histograms) the in-use viewer program preferences (based on viewed program history)” Ex-1023 ¶3295. Klarfeld also teaches that “[o]nce the viewer has finished interacting with the particular interactive video segment, she may close the interactive environment and toggle the PVR Pause to continue watching the TV programming from where she left off.” *Id.* ¶14. Klarfeld further teaches that a “preference agent 110 monitors the viewing selection of the various viewers using the control system 2 and creates viewing profiles of each viewer that are stored in the preference database 116.” *Id.* ¶248.

36. It was also well known that a media profile would be created and stored using control circuitry. For example, U.S. Patent Publication No. 2002/0174430 to Ellis (Ex-1026, “Ellis”) teaches that “[p]ersonalization information for one or more users may be stored on set-top box 202, on personal video recorder 208, on server 112 of FIG. 1, on combinations thereof, or on any other suitable equipment. Personalization information may include user profiles, preferences, viewing history, recording history, etc. Personalization information may be used to automatically record programs that match the personalization information. Programs may be recorded when information related to an upcoming program matches personalization information for a user such as a user’s preferences or may be recorded when information related to an upcoming program compares well with stored personalization information.” Ex-1026 (Ellis) ¶175; *see also id.*, ¶168 (“User computer equipment may include a computer based receiver having integrated set-top box circuitry or a personal computer television (PC/TV).”), Fig. 1.

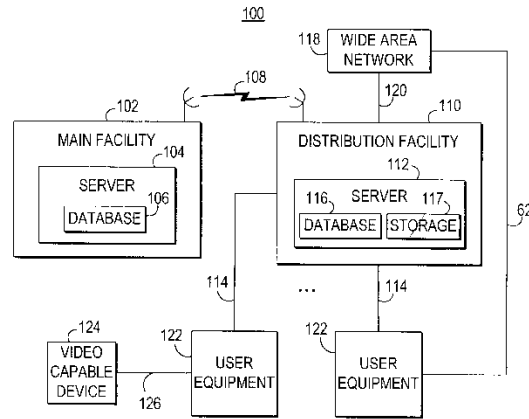


FIG. 1

37. Similarly, U.S. Patent Publication No. 2003/0208767 to Williamson (Ex-1025, “Williamson”) teaches that a “user may also reserve, for later review, not only in-progress programs and future programs as in prior art, but also previously broadcast programs since they have been recorded at the headend regardless of any user request.” Ex-1025 (Williamson) ¶12, Figs. 1- 3; *see also id.*, Figs. 15-16 (showing exemplary GUIs where the user can select a button to create a new profile, delete a profile, and add to a profile), ¶¶100-103.

C. Generating for display on a display screen adjacent user-selectable links corresponding to progress points in serial programs

38. Generating for display on a display screen adjacent user-selectable links corresponding to progress points in multiple serial programs was a known concept by 2005. For example, U.S. Patent Publication No. 2008/0320523 to Morris (Ex-1034, “Morris”) describes “[a] content-progress indicator for an EPG” where “a user interface (UI) for output by a client and for display by a display device includes

a plurality of representation of content items and at least one pictorial representation. Each representation of a content item is selectable by a user to navigate to a corresponding content item. Each content item has a duration when streamed for output by the client. The at least one pictorial representation corresponds to a respective content item and indicates a time remaining in the duration of the respective content item.” Ex-1034, Abstract. Specifically, Morris teaches that “[t]o display the relative amounts of time that have elapsed and that remains in the streaming of the television programs, each of the channels 302-306 may include a respective content-progress indicator 336-340. Each content-progress indicator 336-340 of FIG. 3 supplies a pictorial representation of the elapsed time and the time remaining relative to the duration of a respective stream of a television program. For example, content-progress indicator 336 is illustrated as a bar that represents the duration of the output of the respective television program on channel 302, which in this instance is one hour. The content-progress indicator 336 includes an elapsed-time portion 342 which indicates a relative amount of time in the streaming of the television program that has elapsed in relation to the duration. The content-progress indicator 336 also includes a time-remaining portion 344 that indicates a relative amount of time that remains in the duration of the streaming of the television program. Likewise, content- progress indicators 338, 340 include respective elapsed time portions 346, 348 and respective time-remaining portions 350, 352. In this way,

the content-progress indicators 336-340 supply a direct visual correlation to a viewer of the current output “position” in the duration of corresponding content.” Ex-1034 ¶42. Moreover, in “the EPG 300 of FIG. 3, each of the content-progress indicators 336-340 has a uniform size such that relevant progress of television programs may be compared, one to another. For example, the duration described by the content-progress indicator 336 of the first channel is one hour while the duration described by the content-progress indicator 338 of channel 304 is thirty minutes. Therefore, a viewer is able to judge that although 15 minutes have elapsed from the start time of the respective television programs of both channels 302, 304, that one quarter of the duration for the television program of channel 302 has elapsed as opposed to one half of the duration of the television program of channel 304 by viewing the respective content-progress indicators.” Ex-1034 ¶43, Fig. 3.

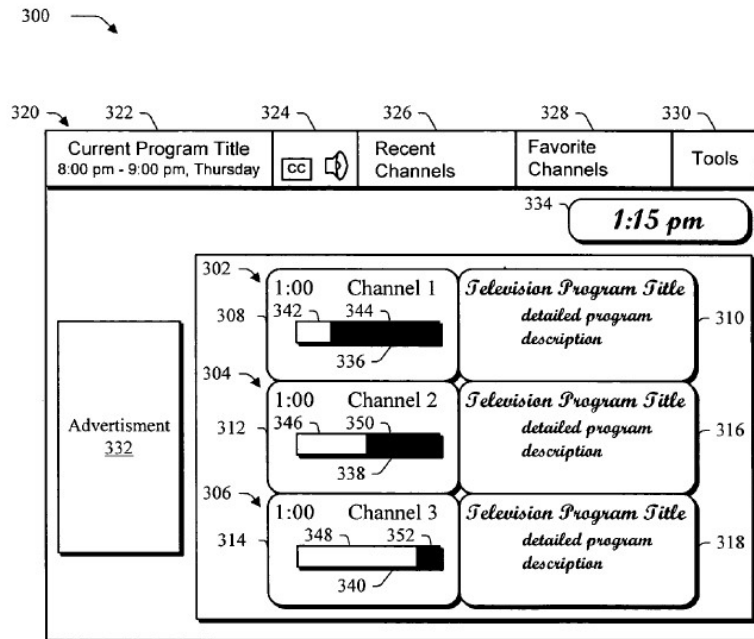


Fig. 3

39. Williamson also teaches that “[i]n a particular illustrative embodiment, referring to FIG. 10, when the user reserves a program that is in progress, terminal 158-1 marks the entire program for display as well as the point at which the user pressed record key 910 (step 5010). On playback, the user has the option to begin viewing either at the beginning of the program or at the point that the user pressed record key 910. In another embodiment, when key 910 is pressed, a menu including different record options for selections is displayed on the TV screen. One such record option may be ‘reserve all’ which enables a user to reserve all related programs that are available. For example, the user may use select key 960 to select the ‘reserve all’ option to reserve all episodes of a particular TV show, which include all past, in-

progress and future episodes that are available for reservation (steps 5020, 5040).”

Ex-1025 (Williamson) ¶70.

40. Indeed, providing a plurality of user-selectable links, such as buttons that may be selected by the user on a graphical user interface, corresponding to video content items that may be streamed to the user was well known. For example, in addition to the Williamson and Morris references described above, U.S. Patent Publication No. 2006/0010467 to Segel (Ex-1022, “Segel”) teaches “a video server for enabling personalized entertainment on a video terminal, comprising: means for generating a viewer preference (VP) profile; means for constructing a personalized content sequence by selecting a plurality of eligible video content items from a plurality of video content items using the VP profile; a control unit for controlling selection and ordering of the plurality of eligible video content items within the personalized content sequence, and controlling transfer of a selected video content item of the personalized content sequence to the video terminal; a user interface for transmitting video content selection commands from the video terminal to the video server, transmitting the selected video content item from the video server to the video terminal and transmitting video content feedback messages to the video server; and an interface to a video content storage for storing the plurality of video content items and a content descriptor file associated with each video content items for describing the video content item.” Ex-1022 ¶20.

D. Selecting the user-selectable links causes the serial programs to be generated for display at the progress points

41. It was a known concept by 2005 that selecting the user-selectable links causes the serial programs to be generated for display at the progress points. For example, Kesteloot teaches that “[i]n the event that the selectable content chunk has resume information associated with it, the system resumes playback at the location specified in that resume information, within the content chunk associated with the resume information.” Ex-1033 (Kesteloot) ¶64. Sull also teaches that a user “can move the highlighted cursor 606 (compare 206) upwards or downwards to select the video bookmark of interest for playback from the corresponding location specified by the video bookmark.” Ex-1021 (Sull) ¶167.

42. Similarly, Tecot’473 teaches that “[a]fter creating a mark in a media content program, the user who created the mark, or a different user, can resume the presentation of the media content program at the same processing mechanism that was used to create the mark, or the user can resume the media content program at a different processing mechanism. For instance, assume that a user 152 uses the remote control 144 to enter a mark while watching a particular media content program (e.g., while watching a television program or movie) in room 118 by actuating the mark button 146 at a particular juncture in the presentation of the media content program. This action prompts the processing mechanism 126 to record the mark and correlate it to a particular point in the media content program that is

temporally associated with the actuation of the mark button 146. To facilitate discussion, room 118 can be referred to as a ‘source location,’ since it defines the geographic location where the user viewed a portion of the media content program and created the mark. That same user 152 (or another user) can then invoke the mark to resume the presentation of the media content program. The user 152 can invoke the mark at the processing mechanism 126 used to create the mark, or at any other processing mechanism in the home environment 102. To provide a concrete example, assume, for instance, that the user 152 uses remote control 148 in room 122 to invoke the mark, causing the processing mechanism 130 to resume the presentation of the media content program starting from the position in the program associated with the mark.” Ex-1024 (Tecot’473), 7:41-8:1.

43. *See also* Ex-1026 (Ellis) ¶236 (“If the program had previously been partially viewed, flipping to the recorded program may the interactive television application to start to play the program from the point at which viewing most recently ended.”); Ex-1024 (Tecot’473), 21:35-47 (“Activating any button entry corresponding to a program that contains marks will prompt the processing mechanism 130 to activate the program thus selected. Like the case of the activation of the mark panel, the processing mechanism 130 can specifically be configured to show a status bar associated with the selected program and to automatically select the most current mark that appears in the timeline of that status bar (providing that

there are multiple marks in the selected program). The processing mechanism 130 allows the user 152 to navigate among multiple marks to select a resume point other than the most current marked point; this navigation can be implemented using left and right keys provided on the remote control 148.”).

E. Associating the links with a plurality of cells and arranging them in rows and columns

44. Associating the links with a plurality of cells and arranging them in rows and columns was a known concept by 2005. For example, Klarfeld discusses that that “[c]urrent Program Guides are typically presented in the manner of spread sheets where each row corresponds to a program channel, numbered and named in a first column (or first two columns) with program titles in subsequent columns.” Ex-1023 (Klarfeld) ¶3321. Similarly, U.S. Patent Publication No. 2001/0010094 to Moir (Ex-1035, “Moir”) also teaches a guide that “includes a grid 2 which is generated with respect to a time bar 4 to indicate the time period for which the display is generated and a channel column 6 which indicates those channels for which the grid has been generated. Each channel in the column is allocated a row 8 and the row can comprise one or a plurality of cells 10. Each cell represents a television programme which is to be shown on that channel during the time period represented by a time bar and can, as shown, include a title of the programme.” Ex-1035 (Moir) ¶17.

F. Automatically presenting an unwatched episode in the serial program in response to a user's selection of a link

45. Automatically presenting an unwatched episode in the serial program in response to a user's selection of a link was a known concept by 2005. For example, Kesteloot teaches that "for a content chunk such as a series of episodes ... [d]efault configuration and user preferences are used to determine where a series of episodes is resumed when, for example, the first episode has been watched, the second has not been watched, and five minutes of the third episode has been watched." Ex-1033 (Kesteloot) ¶62. Additionally, Kesteloot teaches that "in the event that the last viewed content chunk was an episode, among many episodes within a larger selectable content chunk, and the viewer stopped playback while in the credits for that content chunk, the resume information for the larger content chunk can be set to lie in the next episode available in the larger selectable content chunk." Ex-1033 (Kesteloot) ¶61.

46. *See also* Ex-1026 (Ellis), Fig. 11 (below, teaching relevant sequential and automatic presentation of unwatched episodes); Ex-1038 (Stark) ¶¶20 (dynamically playing "next episode of a multi-episode television program that has not yet been televised or otherwise made available"), 55 ("Similarly, the criteria for a playlist may include an indication of a multi-episode television program or other type of content with multiple distinct associated content pieces, and if so the dynamic population of the playlist may include selecting an appropriate one or more of the

multiple associated content pieces (e.g., the latest episode of an indicated multi-episode program).”); Ex-1028 (Ellis-2) ¶¶145 (“The program guide may provide the user with the opportunity to access a directory or other such list of programs that have been recorded for the user on remote media server 24 or local media server 29.”), 73 (“In other suitable arrangements, the recording and playback functionality of remote media server 24 may be incorporated into Internet service system 235 if Internet service system 235 has suitable processing circuitry, memory, and storage.”), Fig. 14e (below, highlighted); Ex-1037 (Ellis-3) ¶¶173 (“The program guide may also allow the user to define ‘super-programs.’ Super-programs are sequences of programs or program segments that the guide will play back sequentially in a specified order.”), 199 (“The program guide may display an overlay, such as overlay 141 of FIG. 22, to indicate to a user when the user has stopped, paused, rewound, or fast-forwarded the program. At step 3010, remote media server 24 or local media server 29 may adjust the user pointer within a program portion, or may move the pointer to the next program portion.”); Ex-1030 (Ellis-4) ¶¶110-111, 118.

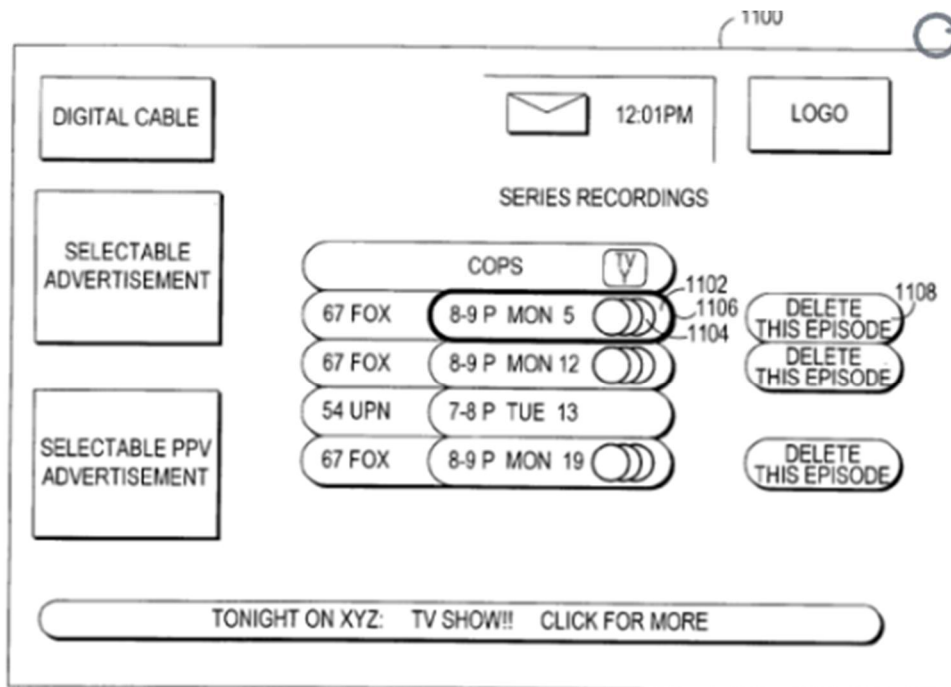


FIG. 11

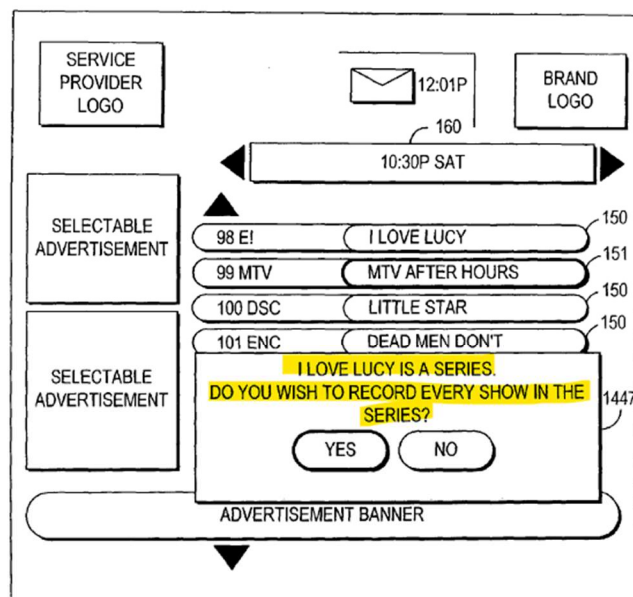


FIG. 14e

G. Presenting a summary region associated with the serial program, which indicates a predefined viewing order

47. Presenting a summary region associated with the serial program, which indicates a predefined viewing order was a known concept by 2005. For example, U.S. Patent Publication No. 2005/0273815 to Orr (Ex-1036, “Orr”) teaches that the EPG’s information shown for a selected episode includes “season and/or episode information,” using the example of Friends and present the exact metadata you want visualized in the on-screen info/summary area. Ex-1036 ¶¶7, 23 (“Through processing techniques, as described below, viewing event indicators having common elements may be combined. For example, in a first combining approach 134, multiple episodes of the talk show Oprah are listed in the first viewing events list 122 and are combined to a single listing in the second viewing events list 130.”), Fig. 7.

48. *See also* Ex-1027 (Cassin) ¶150 (teaching a GUI with multiple panes, stating: “the List Pane 720 may identify the Show, Episode number, Description, Receive Date and Publish Date”), Fig. 7a; Ex-1029 (Simms) ¶29 (teaching that EPG “listings” metadata includes “episode title and episode number”); Ex-1026 (Ellis), Fig. 11 (showing series and all episodes for each series).

VIII. THE ’324 PATENT AND ITS FILE HISTORY

49. The ’324 Patent relates to “methods for monitoring a user’s viewing progress of media in a series.” Ex-1001, Abstract. The ’324 Patent concedes that

conventional interactive media environments allowed users to customize their media experience using “interactive television program guides,” which “display program reminders, record media content,” and provide other interactive features, such as TV “program listings and summaries, pay-per-view (PPV) services, web browsing services,” video-on-demand (VOD), “and other interactive features, to the user.” Ex-1001, 1:22-52. The ’324 Patent proposes an interactive media monitoring application, which monitors “a user’s viewing progress of a user-selected series of related programs ... consistent with the user’s viewing progress.” *Id.*, 2:21-26, 2:30-34.

50. As shown in annotated¹ Figure 6 below, the ’324 Patent teaches creating a media profile using control circuitry 606 (red), which tracks a user’s viewing progress within multiple serial programs, and storing the media profile in a storage device (blue). Ex-1001, Fig. 6, Cl. 1. The ’324 Patent further teaches displaying on a display screen (orange) user-selectable links corresponding to the user’s viewing progress points within the multiple serial programs, which the user may then select to resume viewing from the progress points. *Id.*

¹ Throughout, emphasis and annotations are added unless otherwise specified.

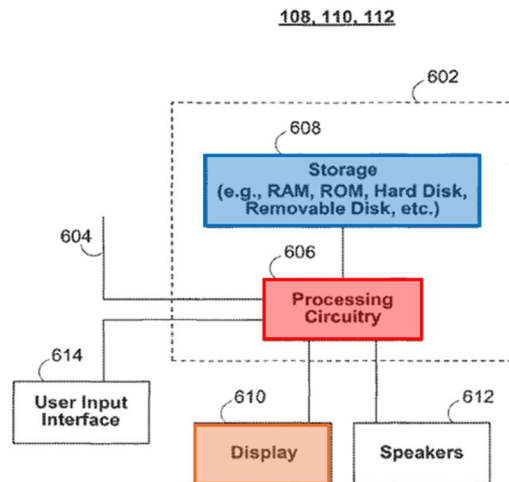


FIG. 6

51. Figure 12 below illustrates an exemplary user media viewing progress screen 1200 displayed to the user. Ex-1001, 25:36-38, Fig. 12 (annotated). The '324 Patent teaches that “the user’s current viewing progress may be listed in progress column 1206.” Ex-1001, 25:59-61. In the example below, the user watched through season 3, episode 3 of the TV series “24” (green) and through season 2, episode 1 of the TV series “Desperate Housewives” (yellow). Ex-1001, 25:63-66. The “user may highlight any entry in progress column 1206 to automatically present the next unwatched episode in the series.” Ex-1001, 26:10-13. Moreover, if the user stops viewing a program before it ends, “the ‘Interrupted’ status may be displayed in last action column 1208 along with the time or position within the program where the user was interrupted or stopped viewing the program” and “[a] link to start the program where the user left off” (not shown). Ex-1001, 26:47-53.

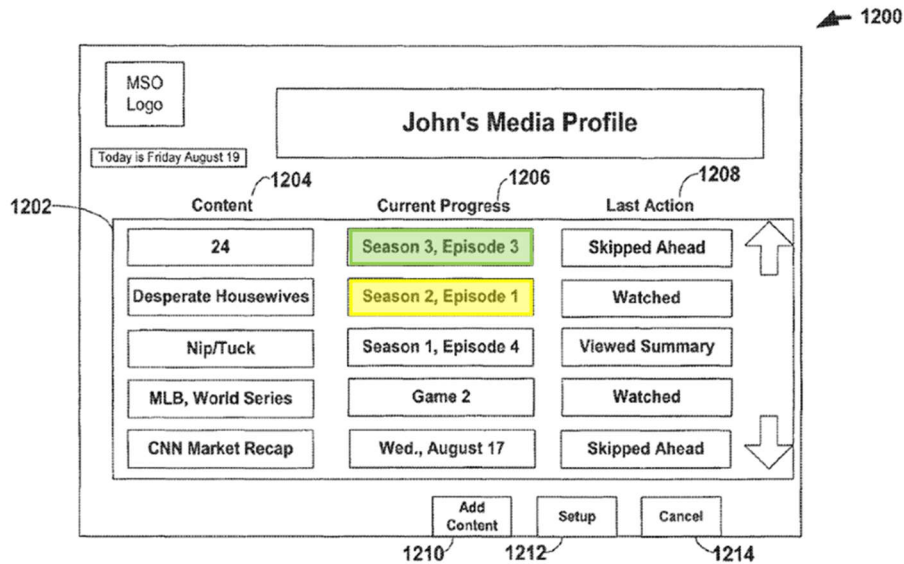


FIG. 12

52. The '324 Patent was filed on December 19, 2017, and claims priority through a chain of 3 continuation applications (now issued patents), the earliest of which was filed on December 9, 2005.² The Examiner did not issue any substantive prior art rejections during prosecution, only a double patenting rejection based on the related '595 Patent, which the Applicant overcame by filing a terminal disclaimer. Ex-1004, 145-55, 174-76.

53. During prosecution of the parent '595 Patent, Applicant submitted a sixteen-page IDS, which cited 373 references including the Logan reference (Ex-1005) applied in Grounds 3-4 herein. Ex-1043, 144-161. The Examiner crossed out Applicant's sixteen-page IDS, including the page listing the Logan reference,

² One of those continuation applications is U.S. Patent No. 9,860,595 ("the '595 Patent"), which has substantially similar claims that are being challenged in IPR2026-00055, filed concurrently with this IPR petition.

indicating that none of the references were considered. Ex-1043, 294-309; *see* MPEP §609.05(a) (“If none of the information listed on a PTO/SB/08 form is considered, a diagonal line or ‘X’ should also be drawn across the form and the form made of record in the application file.”). The Examiner did not provide any explanation for declining to consider any of the 373 references, including Logan. Moreover, the Examiner did not issue any prior art rejections during prosecution of the ’595 Patent, and did not further address any of the references that he noted were not considered.

54. During prosecution of the ’324 Patent, the Applicant did not submit a single IDS. Ex-1004. I understand from counsel that because the Logan reference was explicitly not considered during prosecution of the ’595 and ’324 Patents, the prior art combinations and arguments in this Petition were not before the PTO during prosecution. Ex-1004; Ex-1043. For the reasons I discuss below, the Examiner materially erred by not considering the Logan reference during prosecution because, as demonstrated in Grounds 3-4 below, Logan in combination with Poslinski and McElhatten, respectively, renders obvious each limitation of Claims 1-6. It was a material error to refuse to even consider the Logan reference, or any of the 373 other references that were submitted with it, and that error carries over to the ’324 Patent because Logan was not considered here either.

IX. CLAIM CONSTRUCTION

55. For the purposes of my Declaration, I identify the following claim construction issues. I do not currently believe that any other terms require express construction.

A. “[First/second] progress point” (Claim 1)

56. I understand from Counsel that in the Disney litigation, Petitioner has proposed that the recited “[first/second] progress point” in Claim 1 is the “user’s time position within an episode.” Ex-1043, 2. PO has proposed that “plain and ordinary meaning” should apply. Ex-1044, 2. As I explain below, in my opinion, there is no meaningful difference between these constructions as applied to the prior art references at issue in my Declaration.

B. “Serial program” (Claims 1, 4-6)

57. I understand from Counsel that in the Disney litigation, Petitioner has proposed that the recited “serial program” in Claims 1 and 4-6 is “related programming containing a temporal component connecting episodes.” Ex-1043, 2. PO has proposed that the recited “serial program” is a “program containing a temporal component, such as a recommended order of viewing.” Ex-1044, 2. As I explain below, in my opinion, there is no meaningful difference between these constructions as applied to the prior art references at issue in my Declaration.

C. “The summary region” (Claim 6)

58. I understand from Counsel that in the Disney litigation, Petitioner has proposed that the recited “the summary region” in Claim 6 is indefinite for lacking antecedent basis. *See* Ex-1043, 2. For the purposes of this proceeding only, I have interpreted this limitation to mean a summary region as in Claim 5.

X. OVERVIEW OF THE APPLIED PRIOR ART REFERENCES

A. Tecot (Ex-1006)

59. Tecot (U.S. Patent Publication No. 2005/0097623), titled “Multimedia presentation resumption within an environment of multiple presentation systems” was published on May 5, 2005. I understand from Counsel that Tecot is §102(a) prior art to the ’324 Patent.

60. Tecot teaches a “methodological implementation ... focused on resuming a bookmarked presentation of multimedia content (stored or broadcast media) at another location.” Ex-1006 ¶131. Tecot teaches that “[w]hen a bookmark command is received while a multimedia content is being presented,” such as the user pressing a “pause” key using a graphical user interface (GUI), “the centralized multimedia presentation system 210 of the exemplary resumption architecture stores a ‘bookmark’ indicative of that point in the presentation.” Ex-1006 ¶¶81, 111-116. Each bookmark identifies, among other information, a “relative time within the content,” and “the user who ‘bookmarked’ the content.” Ex-1006 ¶¶82-87. When the user later “queries for information about a particular multimedia content (herein,

‘program’), a resume option is provided if there is a bookmark stored for that program.” Ex-1006 ¶94.

61. As shown in Figure 10 annotated below, Tecot teaches displaying a plurality of bookmarked programs such as bookmarks for “The Little Princess” program (yellow) and “The Cook, the Thief, His Wife & Her Lover” program (green). Ex-1006 ¶¶167-169, Fig. 10. The user may select a bookmarked program “to continue watching” it from the bookmarked position. Ex-1006, Figs. 9-10.

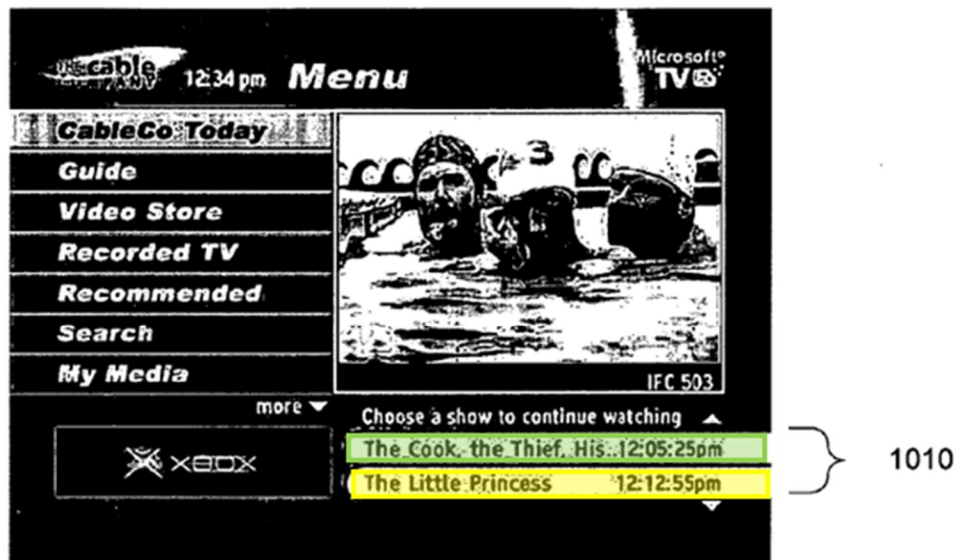


Fig. 10

B. Logan (Ex-1005)

62. Logan (U.S. Patent No. 5,732,216), titled “Audio message exchange system” was filed on October 2, 1996 and issued on March 24, 1998. I understand from Counsel that Logan is §102(b) prior art to the ’324 Patent.

63. Logan teaches “[a]n audio program and message distribution system,” which compiles a usage log “to record the subscriber’s use of the provided program[s]” and “modify the subscriber’s preferences based on actual usage.” Ex-1005, Abstract. Logan’s system is illustrated in annotated Figure 1 below. Ex-1005, Fig. 1. Logan teaches that its host server 101 (green) “stores and maintains a user data and usage log database” 143 (blue), which “stores uploaded usage data received from the store 109” (blue) in player 103 (purple). Ex-1005, 5:34-38, Fig. 1. Player 103 is implemented by a processor (CPU 105) (red) and has a screen display (orange). Ex-1005, 3:24-26, 11:43-44.

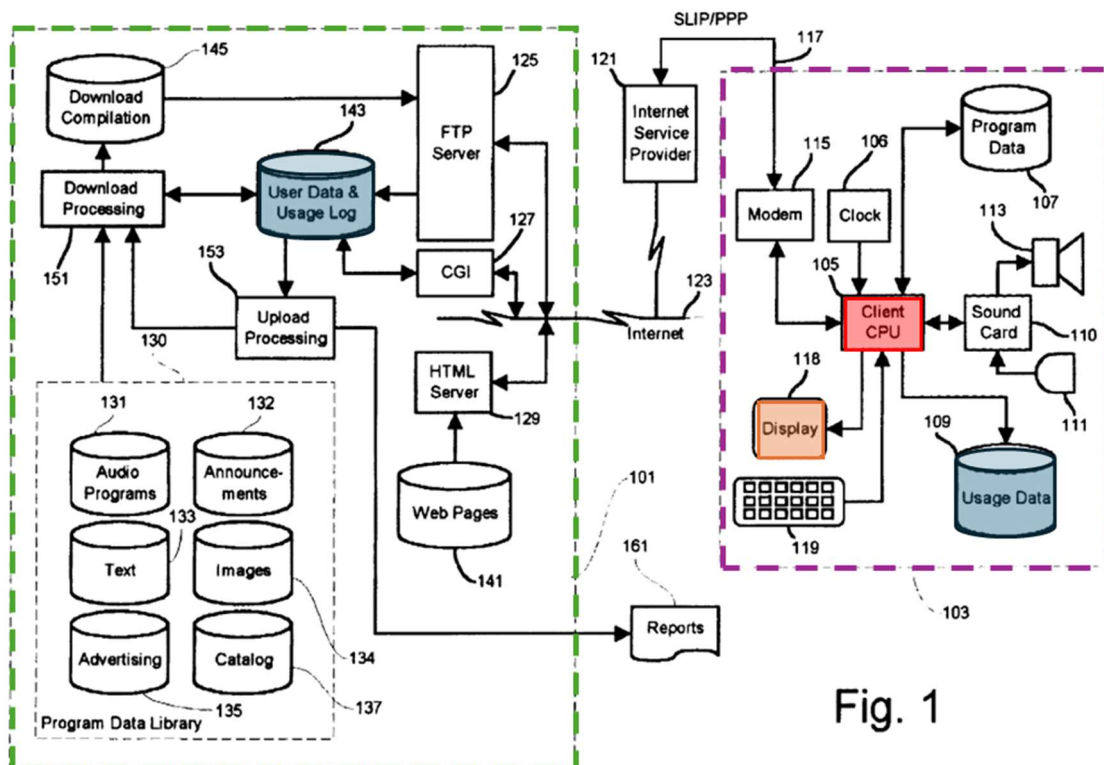


Fig. 1

64. Logan teaches that a “playback session begins with the presentation of an audio (and/or displayed) menu which allows the user to jump to any program segment within that sequence to start (or resume) playback.” Ex-1005, 11:16-20. For example, “the current playback position may be advantageously indicated by displaying the program segment topic descriptions in a scrolling listing, with the description of the program currently being displayed being highlighted.” Ex-1005, 11:43-48. Logan further teaches that “[t]he scheduled duration of each program segment may be displayed, along with the elapsed time remaining to be played in the currently playing segment.” Ex-1005, 11:48-52. Moreover, Logan teaches “respond[ing] to the users selection of a given program on the scrollable listing by means of a mouse or the like.” Ex-1005, 11:53-57.

65. Logan also teaches that the normal programming sequence may identify “anchor” passages for the user, which “are further associated with a reference to hyperlinked material to which the playback may jump upon the listener’s request.” Ex-1005, 30:32-38. Logan teaches a “special key,” “which, when activated, causes a ‘return’ to be made to the playing sequence at the point of the original anchor from which the hyperlink was performed.” Ex-1005, 30:55-61. Therefore, the listener retains the ability to “resume the playing sequence at the point of the first hyperlink call.” Ex-1005, 30:61-31:2.

C. Lee (Ex-1008)

66. Lee (U.S. Patent No. 7,127,735), titled “Video-on-demand system and video viewing assisting method” was filed on May 19, 2000. I understand from Counsel that Lee is §102(e) prior art to the ’324 Patent.

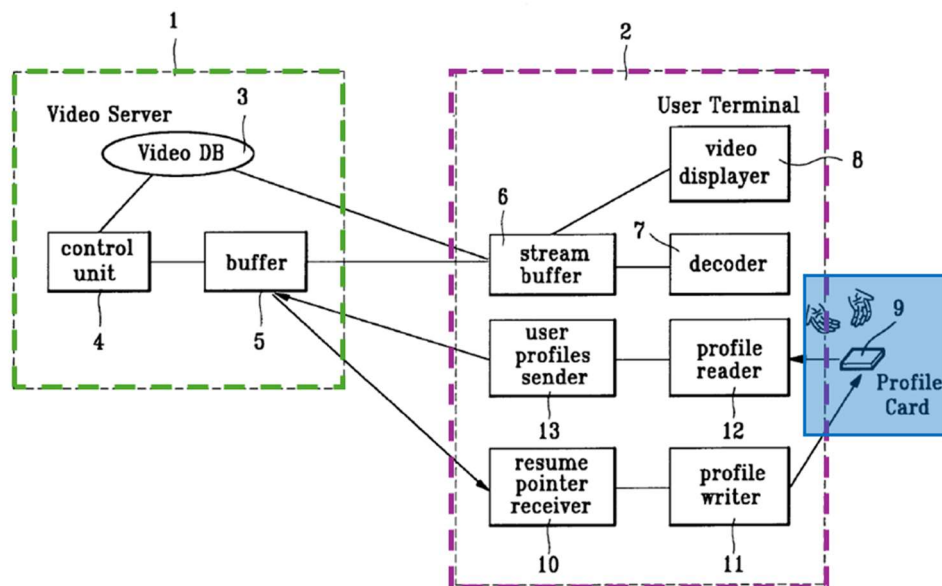
67. Lee teaches a VOD “method which efficiently enables a user to resume viewing of a video program from an interrupted position.” Ex-1008, Abstract. Lee teaches that “when a user interrupts viewing of a video program, the video server transmits to the user terminal user profile information which includes the characteristic information related to the viewing of the video program” so that if the user later “requests resumption of the interrupted video program using the user profile information, the video server re-transmits the video program from the interrupted position of the video program.” Ex-1008, Abstract. As shown in Figure 3A below, Lee’s user profile includes, for example, “a position information field (POSITION: #10325) of an interrupted video program.” Ex-1008, 5:1-7, Fig. 3A.

FIG.3A

Video ID	POSITION
P13 (RED)	#10325

68. Lee further teaches that the user profile “is stored in a storage means provided in a user terminal registered in the VOD system or a local storage such as a smart card inserted in the user terminal.” Ex-1008, 3:27-32. For example, as shown in annotated Figure 2 below, the user profile may be stored in profile card 9 (blue), which “may be any type of portable storage such as a magnetic card, an IC card, or a smart card.” Ex-1008, 4:17-33, 4:59-60, Fig. 2.

FIG.2

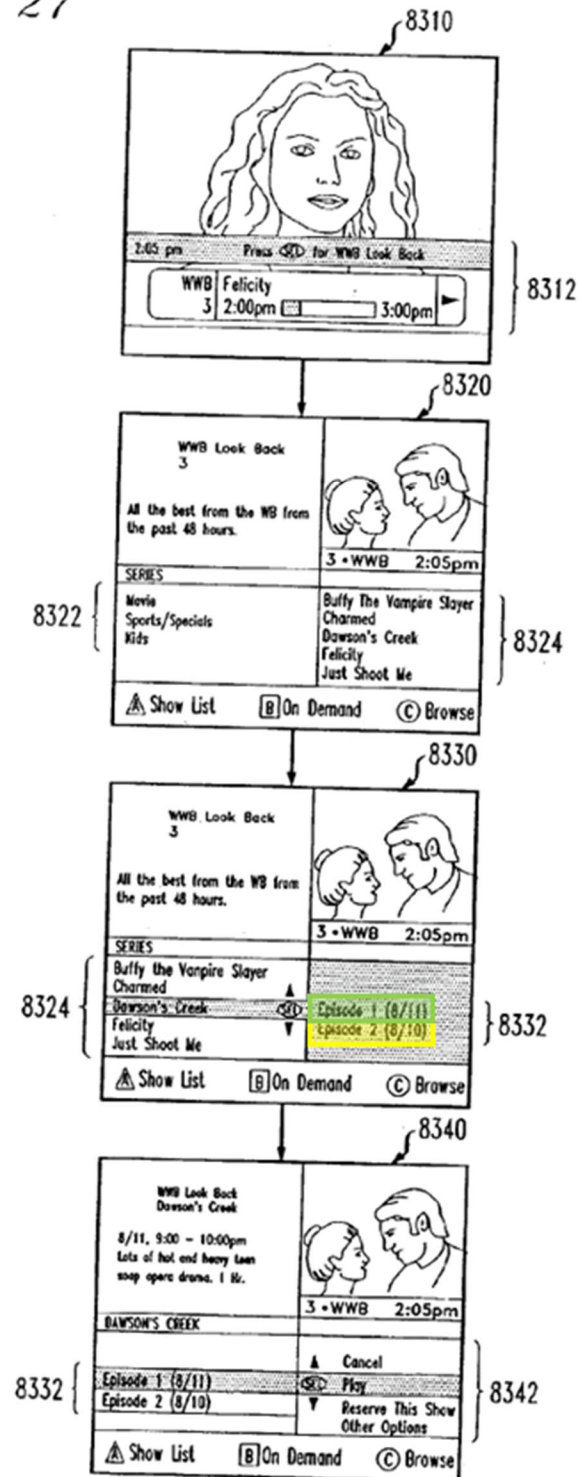


D. McElhatten (Ex-1010)

69. McElhatten (U.S. Patent Publication No. 2003/0220100), titled “Technique for effectively accessing programming listing information in an entertainment delivery system” was published on November 27, 2003. I understand from Counsel that McElhatten is §102(b) prior art to the ’324 Patent.

70. McElhatten teaches techniques for reserving and accessing for viewing programming content including “in-progress programs, future programs and previously broadcast programs” using an interactive program guide. Ex-1010, Abstract. As shown in annotated Figure 27 below, McElhatten teaches “Lookback Programming GUI 8330,” which “lists programs 8324 that are available” for a given program category and “[a]s the user highlights a listed program, episodes 8332 that are available through the Lookback feature are listed on the right side of GUI 8330.” Ex-1010 ¶164, Fig. 27. When the user selects “a program by pressing select key 960 of remote control 900,” the GUI lists on the left side “episodes 8332 that are available for the selected program” and “[a]s the user highlights a listed episode, reservation/play options 8344 that are available through the Lookback feature are listed on the right side of GUI 8340,” such as, for example “playing the selected episode, reserving the selected episode, etc.” Ex-1010 ¶165. In the example below, when the user selects the Dawson’s Creek series, Episode 1 (green) and Episode 2 (yellow) are shown on the display. Ex-1010, Fig. 27.

FIG. 27



E. Poslinski (Ex-1007)

71. Poslinski (U.S. Patent Publication No. 2006/0048184), titled “Method and system for use in displaying multimedia content and status” was filed on August 26, 2004. I understand from Counsel that Poslinski is §102(e) prior art to the ’324 Patent.

72. Poslinski teaches methods “for use in controlling the display of information relative to the playback of programming content.” Ex-1007 ¶6. Specifically, Poslinski teaches “[o]ne or more progress bar generators 350 ... for generating status bars according to the status of one or more programs being recorded, played back, and/or otherwise accessed by a user.” Ex-1007 ¶42. For example, as shown in annotated Figure 20 below, progress bar 2030 is “displayed showing the status of the main program 2022,” including “the amount of the main program already viewed 2032, and the amount of the main program remaining to be viewed 2034.” Ex-1007 ¶97, Fig. 20 (yellow). Poslinski teaches that “one or more additional progress bars 2040 is/are further displayed showing a lapsed time 2042 and a remaining time 2044 for one or more secondary programs 2024” (green). Ex-1007 ¶97. Moreover, “[t]he user can switch the focus to other playback (and/or record) applications by shifting the focus/highlighting [] to other progress bars ... using up and/or down arrow keys.” Ex-1007 ¶106. For example, “main program progress bar 2030 by default is highlighted as the focus application” and “[t]he user

simply shifts the highlighting to another progress bar to shift the focus to an alternate playback or record application” like progress bar 2040. Ex-1007 ¶107.

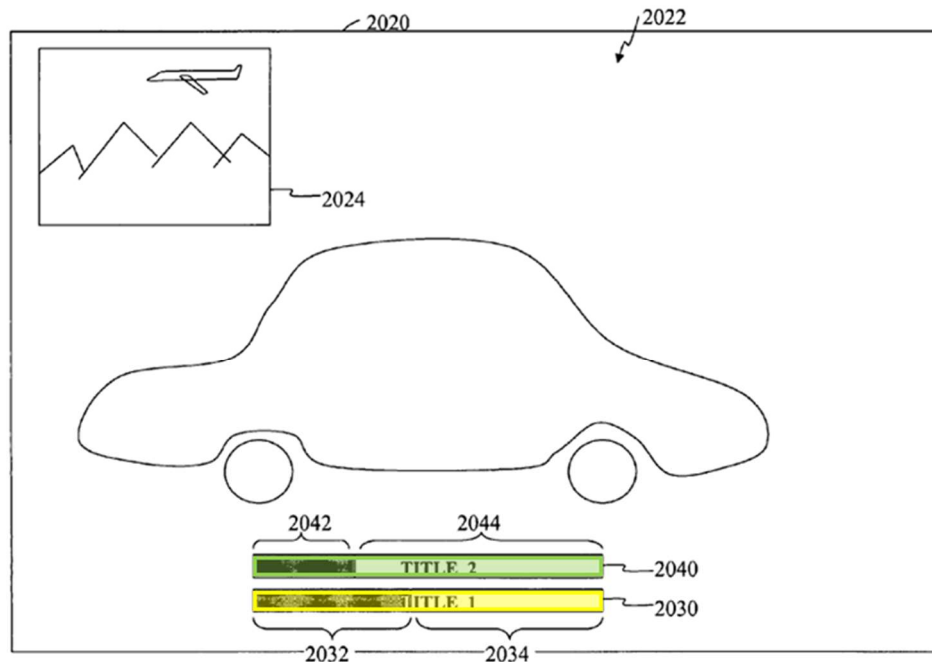


FIG. 20

XI. DETAILED EXPLANATION OF THE UNPATENTABILITY GROUNDS

A. Ground 1: Claims 1-5 are obvious over Tecot in view of Lee.

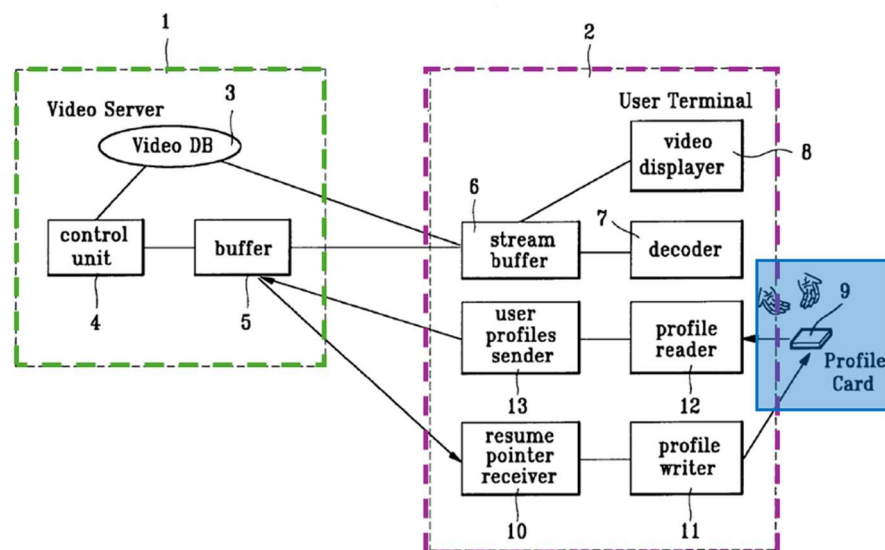
- 1. A POSITA would have been motivated to combine Tecot’s teachings with Lee’s teachings and would have had a reasonable expectation of success.**

73. In addition to the reasons set forth below, a POSITA would have been motivated to combine the teachings of Tecot and Lee and had a reasonable expectation of success in doing so because each relates to methods for presenting multimedia content, which include enabling a user to resume viewing such content from an interrupted position. Ex-1006, Abstract; Ex-1008, Abstract.

74. Tecot teaches a multimedia presentation method that allows a user to resume watching content at a later time from a bookmarked position. Ex-1006, Abstract. Tecot teaches that each bookmark stored in response to a user command identifies, among other things, “the particular multimedia content that is ‘bookmarked,’” a “relative time within the content,” and “the user who ‘bookmarked’ the content.” Ex-1006 ¶¶82-87. For instance, “a bookmark for Program X may indicate that *‘John’ bookmarked* the presentation of Program X in the ‘living room’ *at a relative time of 1:05:35 into the presentation* and did so on Tuesday, Sep. 23, 2003 at 8:43 pm.” Ex-1006 ¶88. Moreover, “when presented on GUI, the bookmarks have visible characteristics so that they are differentiated from each other” such as displaying “bookmarks for ‘Jane’” in red and “bookmarks of ‘John’” in blue. Ex-1006 ¶89. When the user later “queries for information about a particular multimedia content ... a resume option is provided if there is a bookmark stored for that program.” Ex-1006 ¶94. Tecot further teaches that its teachings apply to stored programs, video-on-demand (“VOD”) programs, and broadcast media programs. Ex-1006 ¶¶111-126. Tecot does not explicitly describe a “media profile” that stores the user’s bookmarks, but a POSITA would have been motivated to implement such an individualized user profile because each stored bookmark identifies the user who bookmarked the content and the GUI distinguishes between bookmarks created by different users.

75. Additionally, Lee teaches a VOD method that “enables a user to resume viewing of a video program from an interrupted position.” Ex-1008, Abstract. Lee teaches that “when a user interrupts viewing of a video program, the video server transmits to the user terminal user profile information which includes the characteristic information related to the viewing of the video program” so that if the user later “requests resumption of the interrupted video program using the user profile information, the video server re-transmits the video program from the interrupted position of the video program.” Ex-1008, Abstract, 5:1-7 (Lee’s user profile includes “a position information field ... of an interrupted video program.”), Fig. 3A. Moreover, as shown in annotated Figure 2 below, the user profile may be stored in profile card 9 (blue), which “may be any type of portable storage such as a magnetic card, an IC card, or a smart card.” Ex-1008, 4:17-33, 4:59-60, Fig. 2.

FIG.2



76. A POSITA would have been motivated to store Tecot's bookmarks in a media profile such as a user profile, as taught by Lee, because this was a common way to store settings and other information associated with a user in an interactive multimedia system. Storing Tecot's bookmarks in a media profile would allow the system to track and adapt to the user's preferences over time, providing a more customized experience. Additionally, Tecot teaches that its system is beneficial for households having at least two users where one user may bookmark a program and resume it at the paused point from another location in the home while the other user continues watching it at the original location. Ex-1006 ¶130. Creating and storing a media profile for each user would further this goal by ensuring differentiation between the two users' bookmarks. Furthermore, storing all the user's bookmarks with their profile information alleviates the need to access other system data to gather information related to that user. Moreover, Lee teaches that "[s]ince the user manages the interruption position information of the video programs in the form of a video profile, the load of the video server can also be greatly reduced." Ex-1008, 7:5-8. Thus, a POSITA would have been motivated to store Tecot's bookmarks in a user profile to decrease the work load of the video servers.

77. A POSITA would have also been motivated to store the media profile in a storage device, as taught by Lee, because this is where user profiles are traditionally stored. For example, as I also explained in the Technological

Background section of my Declaration (*see* Section VII.B), creating and storing a media profile comprising a user's viewing progress within serial programs was a well-known concept by 2005. *See, e.g.*, Ex-1023 (Klarfeld) ¶¶14, 248, 3295; Ex-1026 (Ellis) ¶¶168, 175; Ex-1025 (Williamson) ¶¶12, 100-103, Figs. 1- 3, 15-16). Indeed, as shown in annotated Figure 13 below, Tecot's system already includes a storage media component, which would store the media profile when the combined teachings are applied. Ex-1006, Fig. 13 (blue). In the Tecot-Lee combination Tecot's bookmarks corresponding to the user's viewing progress in multiple programs would be stored in a media profile, which would itself be stored in a storage device, as taught by Lee.

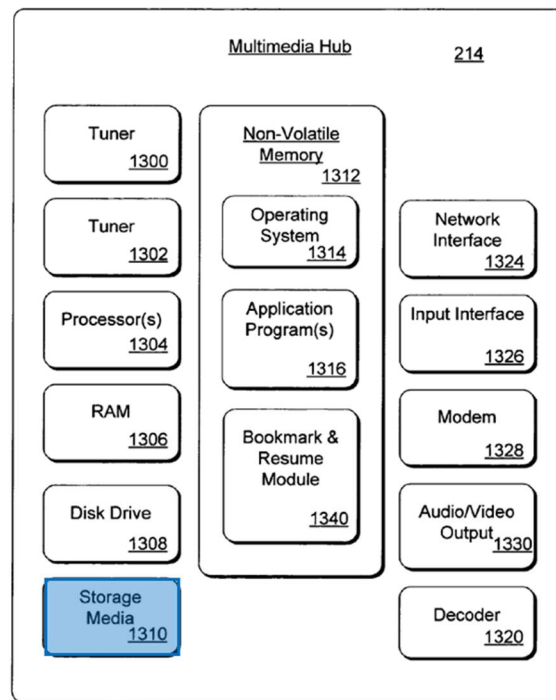


Fig. 13

78. A POSITA would have had a reasonable expectation of success in combining the teachings of Tecot and Lee. Both describe methods for enabling a user to resume viewing multimedia content from an interrupted or bookmarked position using similar hardware and software components. Ex-1006, Abstract, Fig. 13; Ex-1008, Abstract, Fig. 2. A POSITA would thus have understood that these references disclose interrelated teachings based on well-understood technologies that would have been amenable to various well-understood and predictable combinations.

2. Independent Claim 1

a. Element 1[pre]: A method for presenting media content based on a user's viewing progress within serial programs on user equipment, the method comprising:

79. In my opinion, Tecot in view of Lee (“Tecot-Lee”) teaches³ the preamble, to the extent it is limiting.

80. Tecot teaches “multimedia presentation resumption within an environment of multiple presentation systems.” Ex-1006, Title. Specifically, Tecot describes a scenario where “a home may have multiple television sets” in different rooms and a person watching a movie in the living room relocates to the bedroom but wants “to continue watching the same multimedia content at the new locus

³ I understand from Counsel that the term “teaches” includes both express teachings and those fairly suggested to a person of ordinary skill in the art.

exactly *at the point where she ceased viewing the content* at the previous locus.” Ex-1006 ¶¶10, 13. Tecot teaches a method for solving this problem, where “a viewer is able to continue watching such content at a new location (or ‘locus’) from the point that she bookmarked the content at an original location.” Ex-1006 ¶26; *see also id.* ¶131.

81. The ’324 Patent defines “serial programming” broadly as “any programming containing a temporal component, such as a recommended order of viewing.” Ex-1001, 1:65-66. Tecot teaches that its programs may include serial programs such as, for example, General Hospital, which is a serially-presented soap opera TV series with many episodes. *See, e.g.*, Ex-1006, Fig. 11 (showing a bookmark icon for General Hospital episode in the TV guide). Lee also teaches serial programs. Specifically, Lee teaches that when the “requested program is a series, i.e. comes in a plurality of video programs ... the last position of the video program viewed by the user is written in the profile, even if one video program has been viewed without interruption.” Ex-1008, 5:10-15. The user may “continuously view the remaining video programs to complete viewing the whole series.” Ex-1008, 5:15-17, Fig. 3B. Tecot-Lee thus teaches the “serial program” limitation under either parties’ construction, because, for example, the General Hospital series is “related programming containing a temporal component connecting episodes” with “a recommended order of viewing” by season and episode number. Ex-1040.

82. As I also explained in the Technological Background section of my Declaration (*see* Section VII.A), presenting media content based on a user’s viewing progress within serial programs on user equipment was a well-known concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶¶59-60, 62; Ex-1031 (Poslinski’132), 8:47-49, 8:49-58, Cl. 30; Ex-1032 (Broadus), Abstract; Ex-1024 (Tecot’473), 2:10–18; Ex-1021 (Sull) ¶167, Figs. 6, 10-13.

b. Element 1[a][1]: creating, using control circuitry, a media profile comprising a first viewing progress within a first serial program and

83. In my opinion, Tecot-Lee teaches Element 1[a][1].

84. Tecot teaches keeping track of viewing progress in serial programs by using bookmarks. Specifically, Tecot teaches that “[w]hen a bookmark command is received while a multimedia content is being presented, the centralized multimedia presentation system 210 of the exemplary resumption architecture stores *a ‘bookmark’ indicative of that point in the presentation.*” Ex-1006 ¶81. Tecot further teaches that “[e]ach bookmark will be associated with a particular multimedia content” and will include a “*relative time within the content,*” “*the user who ‘bookmarked’ the content,*” and “absolute chronological time/date.” Ex-1006 ¶¶82-87. For instance, “a bookmark for Program X may indicate that *‘John’ bookmarked* the presentation of Program X in the ‘living room’ *at a relative time of 1:05:35 into the presentation* and did so on Tuesday, Sep. 23, 2003 at 8:43 pm.”

Ex-1006 ¶88. Moreover, “when presented on GUI, the bookmarks have visible characteristics so that they are differentiated from each other” such as displaying “bookmarks for ‘Jane’” in red and “bookmarks of ‘John’” in blue. Ex-1006 ¶89.

85. Tecot also teaches that its programs may include serial programs such as, for example, General Hospital, The Kitchen Sessions with Charlie Trotter, and Reading Rainbow. *See, e.g.*, Ex-1006, Figs. 9 (showing bookmarks for The Kitchen Sessions and Reading Rainbow), 11 (showing a bookmark icon for a General Hospital episode in the TV guide, with 47 minutes of play time remaining); *see also* Ex-1039 (IMDB’s episode listing for Season 1 of Reading Rainbow); Ex-1040 (IMDB’s episode listing for Season 1 of General Hospital).⁴

⁴ Tecot further teaches that its multimedia hub “includes one or more processors” (Ex-1006 ¶193), which “process various instructions to control the operation of the system [] and to communicate with other electronic and computing devices.” *Id.*, ¶195. Thus, Tecot’s bookmarking functions are performed using the processors and control circuitry of the media hub.

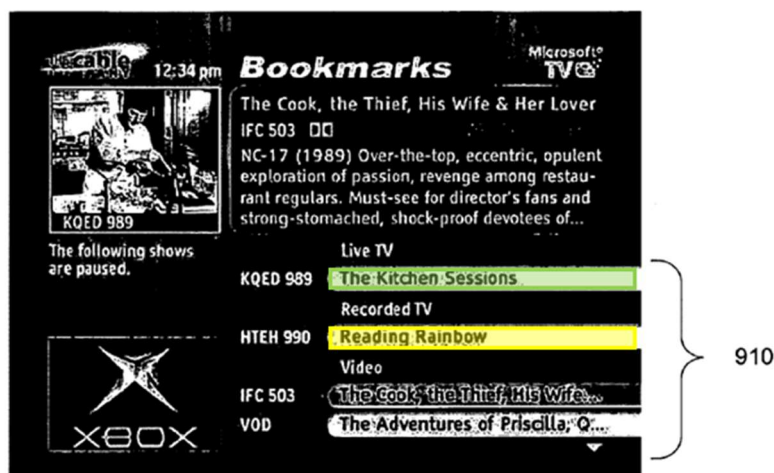


Fig. 9

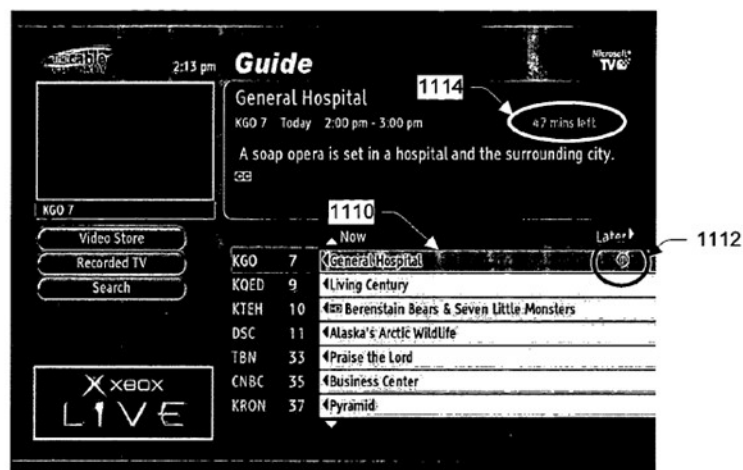


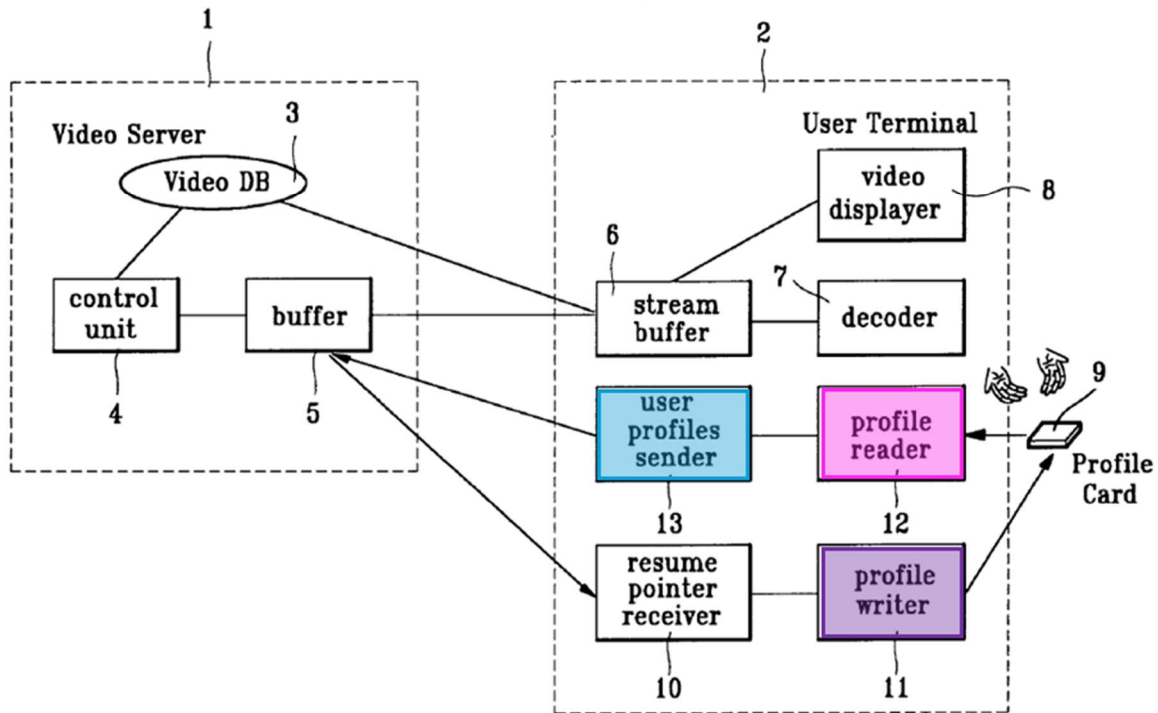
Fig. 11

86. Tecot is silent on whether its user's viewing progress information is stored in a "media profile," but a POSITA would have been motivated to do so because, as described above, Tecot teaches that each stored bookmark identifies the user who bookmarked the content and the GUI distinguishes between bookmarks created by different users. An obvious and routine way to store such user specific information would have been to create user profiles for each of the system's users.

Doing so would more readily allow for customizing the user's experience based on user preferences, such as showing favorite channels, favorite movie genres, tracking a user's watch progress, and storing user selections such as series and shows the user wishes to record. Additionally, Lee provides further teachings regarding user-specific "media profiles" which store program interruption and resumption information for serial programs.

87. For example, Lee teaches creating a user profile (i.e., media profile) comprising an interrupted position of a video program. Specifically, as shown in annotated Figure 2 below, Lee teaches that each user terminal includes "a profile writer [(purple)] for writing the user profile information in a specified local storage, a profile reader [(pink)] for reading the user profile information, and a user profile sender [(blue)] for sending the user profile information read out by the profile reader." Ex-1008, 3:4-11.

FIG.2



88. Lee further teaches that its user profiles should include information about “*when a user interrupts viewing of a video program*” so that if the user later “requests resumption of the interrupted video program using the user profile information, *the video server re-transmits the video program from the interrupted position of the video program.*” Ex-1008, Abstract. Moreover, Lee teaches that when the “requested program is a series, i.e. comes in a plurality of video programs ... the last position of the video program viewed by the user is written in the profile, even if one video program has been viewed without interruption.” Ex-1008, 5:10-15. The user may thus “continuously view the remaining video programs to complete viewing the whole series.” Ex-1008, 5:15-17. Specifically, as shown in Fig. 3B

below, “the first row of the profile structure indicates that a video program ‘P13 (RED)’ of a Type 1 has been viewed up to ‘#10325’” and “[t]he second row of the profile structure indicates that a video program ‘S02(RED)’ of a Series is to be viewed next and from the beginning, i.e. the user completed viewing the video programs in the series prior to the ‘S02(RED).’” Ex-1008, 5:17-23, Fig. 3B.

FIG.3B

Video Type	Video ID	POSITION
Type 1	P13 (RED)	#10325
Series	S02(RED)	#0

89. In the Tecot-Lee combination, Tecot’s bookmark corresponding to a first progress point in a first serial program would be stored in a media profile as taught by Lee. *See* Section XI.A.1. Moreover, as I explained in the Technological Background section of my Declaration (*see* Section VII.B), creating and storing a media profile comprising a user’s viewing progress within serial programs was a well-known concept by 2005. *See, e.g.*, Ex-1023 (Klarfeld) ¶¶14, 248, 3295; Ex-1026 (Ellis) ¶¶168, 175; Ex-1025 (Williamson) ¶¶12, 100-103, Figs. 1- 3, 15-16).

c. **Element 1[a][2]: a second viewing progress within a second serial program;**

90. In my opinion, Tecot-Lee teaches Element 1[a][2].

91. Tecot teaches tracking a second viewing progress, using a bookmark, within a second serial program. As shown in annotated Figures 9-10 below, Tecot teaches a plurality of programs that each contains a respective viewing progress stored in its respective bookmark. Ex-1006 ¶¶167-169, Figs. 9 (first program (green), second program (yellow)), 10 (first program (green), second program (yellow)). Tecot teaches that “the GUI may list a subset of *all of the bookmarks* ... based upon one or more properties.” Ex-1006 ¶170. As explained in the previous section, General Hospital, The Kitchen Sessions with Charlie Trott, and Reading Rainbow are all examples of serial programs taught by Tecot. Exs-1039-1040. Tecot thus teaches multiple user progress bookmarks for multiple serial programs using control circuitry as described in the previous section.

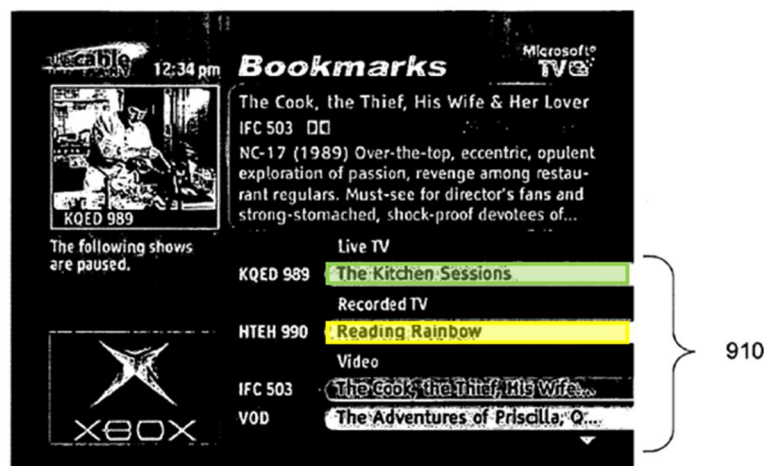


Fig. 9

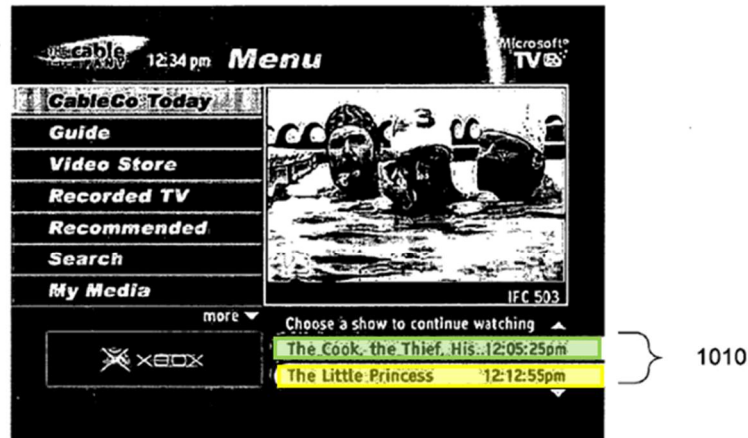


Fig. 10

92. As noted in Section XI.A.2.b, Lee provides further teachings regarding user profiles and serial programs. In the Tecot-Lee combination, Tecot’s bookmark corresponding to a second progress point in a second serial program would be stored in a media profile as taught by Lee. *See also* Section VII.B.

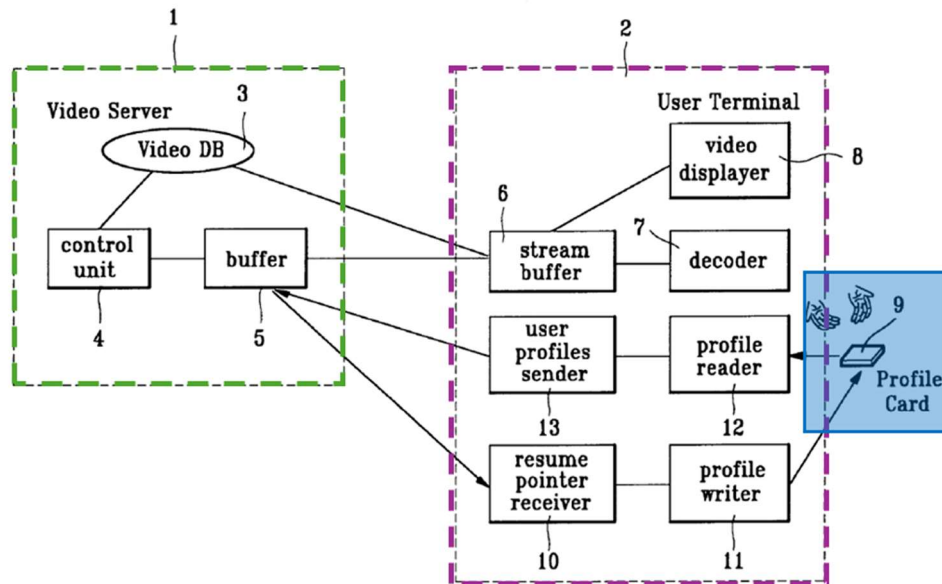
d. Element 1[b]: storing the media profile in a storage device;

93. In my opinion, Tecot-Lee teaches Element 1[b].

94. Lee teaches that the user profile (i.e., media profile) “is stored in a storage means provided in a user terminal.” Ex-1008, 3:27-32. For example, as shown in annotated Figure 2 below, Lee teaches that user terminal 2 (purple) comprises, among other things, “*a profile writer 11 which writes an identifier (ID) of the interrupted video program and the position information of the interrupted video program in a profile card 9 [(blue)].*” Ex-1008, 4:17-33, Fig. 2. Lee further teaches that “profile card 9 may be any type of portable storage such as a magnetic

card, an IC card, or a smart card.” Ex-1008, 4:59-60; *see also id.*, 4:61-63 (“Alternatively, a local storage may be implemented in the user terminal 2 to record the profile information rather than using a portable storage as the profile card 9.”).

FIG.2



95. Tecot itself already includes such a storage device on the user terminal (i.e., “Multimedia Hub” 214) as well, where a profile would have been stored: storage media 1310 (blue). Ex-1006, Fig. 13.

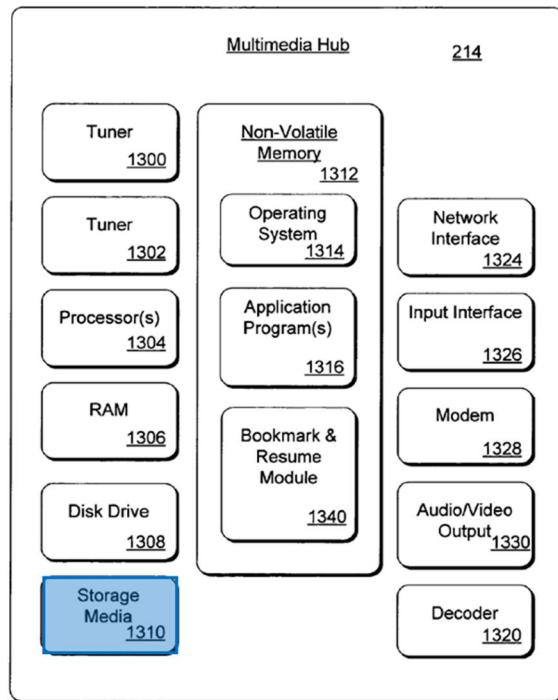


Fig. 13

Thus, in the Tecot-Lee combination, Tecot’s progress-indicating bookmarks would be included in a media profile, as taught by Lee, which is then stored in a storage device such as Tecot’s storage media 1310 or Lee’s profile card 9, either of which would have been suitable for this purpose. *See also* Section VII.B.

e. Element 1[c][1]: determining, using the control circuitry, a first progress point in the first serial program based on the first viewing progress and

96. In my opinion, Tecot-Lee teaches Element 1[c][1].

97. Tecot teaches determining, using control circuitry, a first progress point in the first serial program based on the first viewing progress. As shown in Figure 3 below, Tecot teaches “a methodological implementation of the exemplary

resumption architecture,” which “may be performed in software, hardware, or a combination thereof.” Ex-1006 ¶108; *see also id.* ¶193 (multimedia hub “includes one or more processors”), 196-198 (operating system and applications executed on the processors), 218-219 (“exemplary resumption architecture” includes processor-executable instructions). Figure 3’s method focuses “on bookmarking multimedia content (stored or broadcast media) in response to a viewer’s action (such as bookmarking a presentation)” “in the current point of presentation.” Ex-1006 ¶109; *see also id.*, Fig. 5.

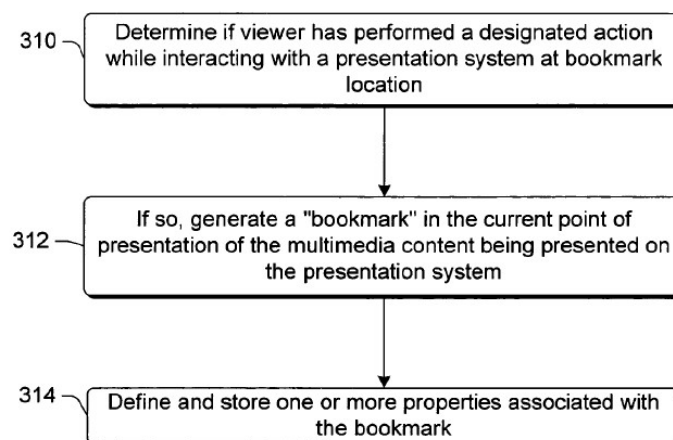


Fig. 3

98. At step 310, the system “determines if the viewer has performed one of the designated actions while interacting with a presentation system.” Ex-1006 ¶110. Examples of designated actions include the following: “the user presses the ‘pause’ key or a dedicated ‘bookmark’ key (on a remote control, on the system, or via a GUI).” Ex-1006 ¶¶111-116; *see also id.*, ¶¶117-122 (describing similar designated actions for VOD programs), 123-126 (describing similar designated actions for broadcast media programs). If a designated action such as the user pressing “pause” occurs, at step 312, the system “***generates a ‘bookmark’ in the current point of presentation*** of the stored multimedia content being presented on the presentation system.” Ex-1006 ¶127. The user pausing the presentation results in bookmarking the content at the-current progress point in the program. *See also* Section XI.A.2.b (both Tecot and Lee teach serial programs). Tecot-Lee thus teaches the “[first/second] progress point” limitation under any construction, because its bookmark corresponds to the “user’s time position within an episode,” meeting the plain and ordinary meaning of the term “progress point.”

99. As I also explained in the Technological Background section of my Declaration (*see* Section VII.A), determining a progress point in a serial program based on the user’s viewing progress was a well-known concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶¶59-60, 62; Ex-1031 (Poslinski’132), 8:47-49, 8:49-58, Cl.

30; Ex-1032 (Broadus), Abstract; Ex-1024 (Tecot'473), 2:10–18; Ex-1021 (Sull) ¶167, Figs. 6, 10-13.

f. Element 1[c][2]: a second progress point in the second serial program based on the second viewing progress;

100. In my opinion, Tecot-Lee teaches Element 1[c][2].

101. Tecot teaches determining, using control circuitry, a second progress point in the second serial program based on the second viewing progress for the same reasons described in the previous section and Section XI.A.2.c because Tecot teaches determining a progress point in a plurality of programs based on any of multiple potential users pausing any of a number of available programs, as shown in Tecot's GUI. Ex-1006 ¶¶167-169, Figs. 9-10. *See also* Sections XI.A.2.c (both Tecot and Lee teach serial programs) and VII.A.

g. Element 1[d][1]: generating for display, on a display screen, a first user-selectable link corresponding to the first progress point in the first serial program

102. In my opinion, Tecot-Lee teaches Element 1[d][1].

103. Tecot teaches generating for display, on a display screen, a user-selectable link. Tecot teaches that its multimedia hub includes “a user interface application and user interface lights, *buttons, controls, etc. to facilitate viewer interaction* with the device” such as the GUIs depicted in Figures 7-13. Ex-1006 ¶198. Moreover, Tecot teaches that “input interface 1326 (e.g., serial, parallel, infrared, etc.) and network interface 1324 allow the hub to interact and communicate

with other electronic and computing devices via *various communication links*” and “may ultimately *allow a user to provide input* into the hub.” Ex-1006 ¶199.

104. The '324 Patent does not define the term “user-selectable link” but teaches that the patent’s display screens “use commonly-used application selection objects such as hyperlinks, buttons, lists, drop-down boxes, and checkboxes” for making selections. Ex-1001, 23:6-13. A POSITA would thus have understood that Tecot’s buttons and controls, such as those shown in Figures 9-10 below, that allow the user to provide input to the multimedia hub by selecting a bookmarked program “to continue watching” correspond to the recited “user-selectable link[s].” Ex-1006, Figs. 9-10. Tecot teaches that “a resume option is provided if there is a bookmark stored for that program” and a POSITA would have understood that such an option would be provided in the interface that shows bookmarks or otherwise prompts to “continue watching.” Ex-1006 ¶94, Figs. 9-10.

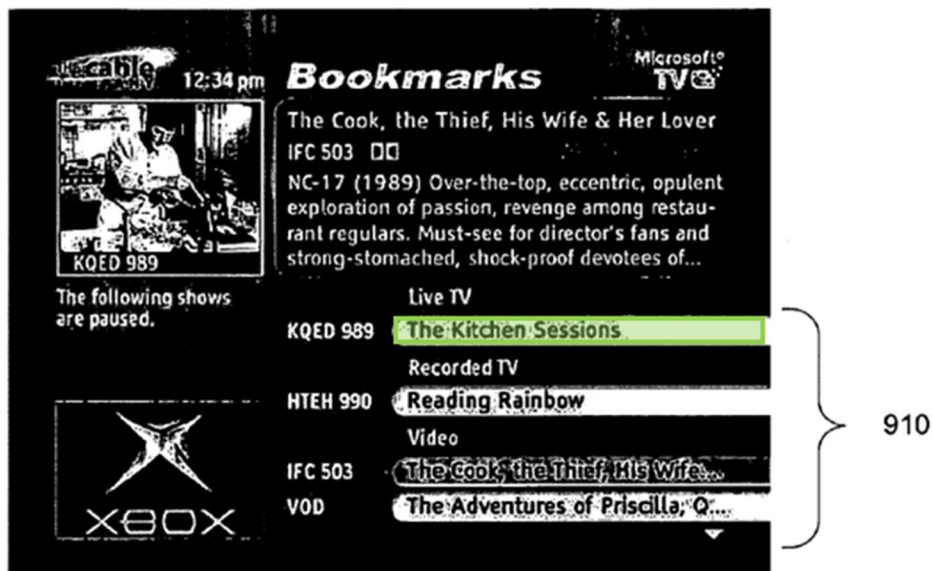


Fig. 9

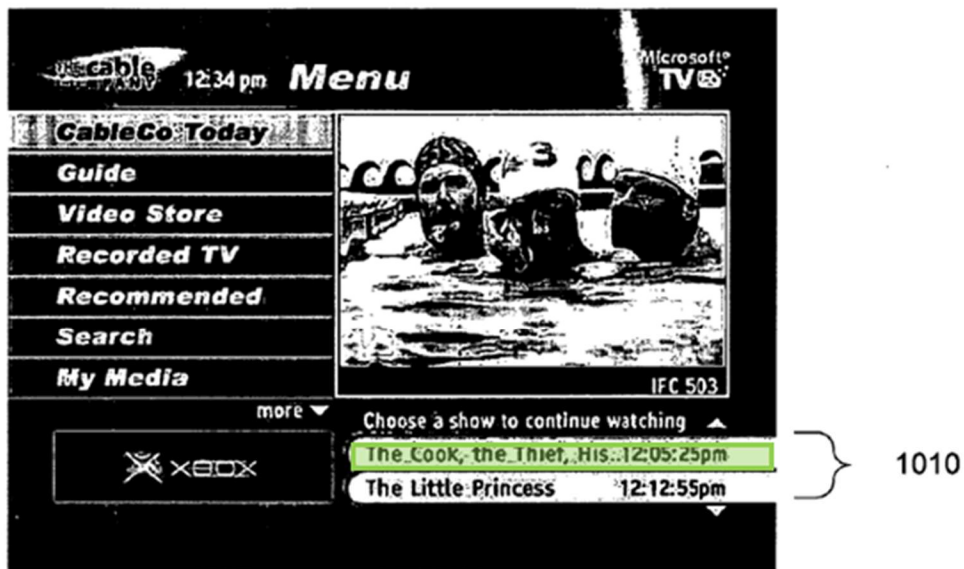


Fig. 10

105. Tecot also teaches that a first-user selectable link corresponds to the first progress point in the first serial program. Tecot teaches that “[w]hen a user (of any presentation system in the networked environment) queries for information

about a particular multimedia content (herein, ‘program’), a resume option is provided if there is a bookmark stored for that program.” Ex-1006 ¶¶94; *see also id.*, ¶¶99 (similar example for live broadcast programs). Tecot’s Figure 4 below describes a methodological implementation for “resuming a bookmarked presentation of multimedia content (stored or broadcast media).” Ex-1006 ¶131. At step 410, “a presentation system at the resume locus (‘resume-locus system’) presents a graphical user interface (GUI).” Ex-1006 ¶132. At step 412, the resume-locus system “***receives an indication based on the user’s interaction with the GUI that the user wishes to view a particular program that has been bookmarked.***” Ex-1006 ¶133. At step 414, “the resume-locus system requests (from the multimedia hub) the particular program to start from the point of the selected bookmark.” Ex-1006 ¶134. And at step 416, “***the resume-locus system*** receives (from the hub) the particular program from the point of the selected bookmark” and “***presents the program from that point.***” Ex-1006 ¶135; *see also id.*, ¶¶184-185 (“The ‘resume from . . . ‘ GUI may be a simple message (such as ‘Resume Bookmarked Program?’) presented on the screen of the resume-locus system and have simple ‘OK’ and ‘cancel’ options. Alternatively, it may have an interface that is more graphic and interactive.”). In Figure 9 and 10’s annotated GUI examples above, the first user-selectable link corresponding to the first progress point in the first serial program would correspond to the button to select

the bookmark for the serial program “The Kitchen Sessions” (green)⁵ and the button “to continue watching” “The Cook, the Thief, His Wife & Her Lover” program (green), respectively.

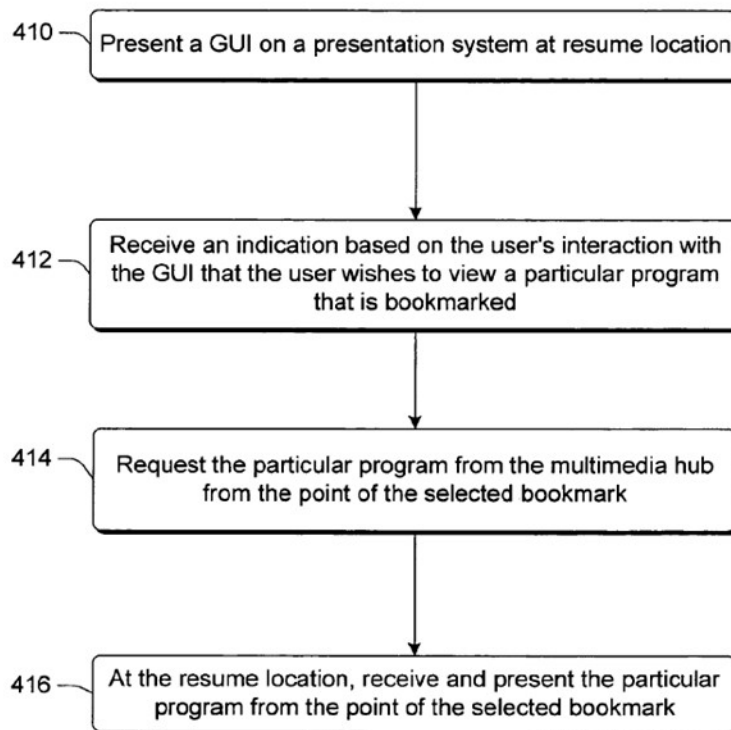


Fig. 4

⁵ Tecot teaches that “in FIG. 9, this screen of the GUI shows four programs that are bookmarked.” Ex-1006 ¶169. Thus, a POSITA would have understood that while “The Kitchen Sessions” is on “Live TV” in this example, it is a program that has been bookmarked at a position that the user may resume viewing from at a later time. Tecot further teaches that “[o]f course, there may be more [programs] that the user may scroll up or down to see” (Ex-1006 ¶169) and that its teachings apply to VOD (Ex-1006 ¶¶117-122). It would thus have been obvious that this same show would be under the “Recorded TV” section of the GUI if it was recorded by the user.

106. As I also explained in the Technological Background section of my Declaration (*see* Section VII.C), generating for display on a display screen adjacent user-selectable links corresponding to progress points in serial programs was a well-known concept by 2005. *See, e.g.*, Ex-1034 (Morris), Abstract, ¶¶42-43, Fig. 3; Ex-1025 (Williamson) ¶70; Ex-1022 (Segel) ¶20.

h. Element 1[d][2]: adjacent to a second user-selectable link corresponding to the second progress point in the second serial program,

107. In my opinion, Tecot-Lee teaches Element 1[d][2].

108. Tecot teaches generating for display on a display screen an adjacent second user-selectable link corresponding to the second progress point in the second serial program for the reasons described in the previous section. Specifically, as shown in Figures 9-10, Tecot's GUI provides multiple user-selectable links corresponding to bookmarked positions in multiple serial programs, which the user selects "to continue watching" the programs from their bookmarked positions. Ex-1006, Figs. 9-10. In Figure 9 and 10's GUI examples below, the second user-selectable link corresponding to the second progress point in the second serial program would be the button to select the bookmark for the serial program "Reading Rainbow" (yellow) and the button "to continue watching" "The Little Princess" program (yellow), which is positioned on the GUI adjacent to the first user-selectable link described in the previous section for "The Cook, the Thief, His Wife

& Her Lover” (green). To the extent PO argues that Figure 10’s programs are not “serial programs,” it would have been obvious that multiple bookmarked “Live TV” or “Recorded TV” serial programs would be displayed adjacent to each other in Figure 9’s example because Tecot teaches that “there may be more [programs] that the user may scroll up or down to see” (Ex-1006 ¶169) and that “variations of these exemplary GUIs may be employed.” Ex-1006 ¶155. Thus, Figure 10’s exemplary GUI displaying two bookmarked films adjacent to each other would be employed with two serial recorded TV programs such as “The Kitchen Sessions” and “Reading Rainbow.”

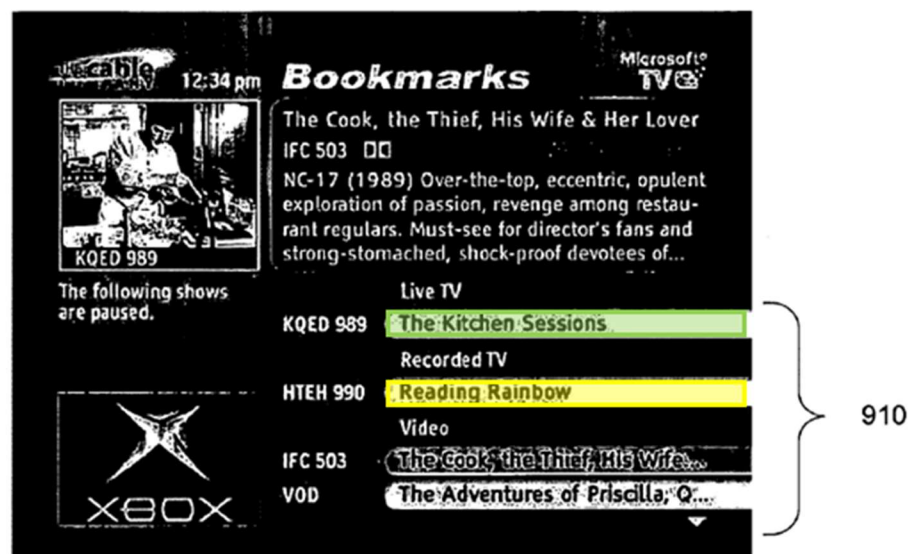


Fig. 9

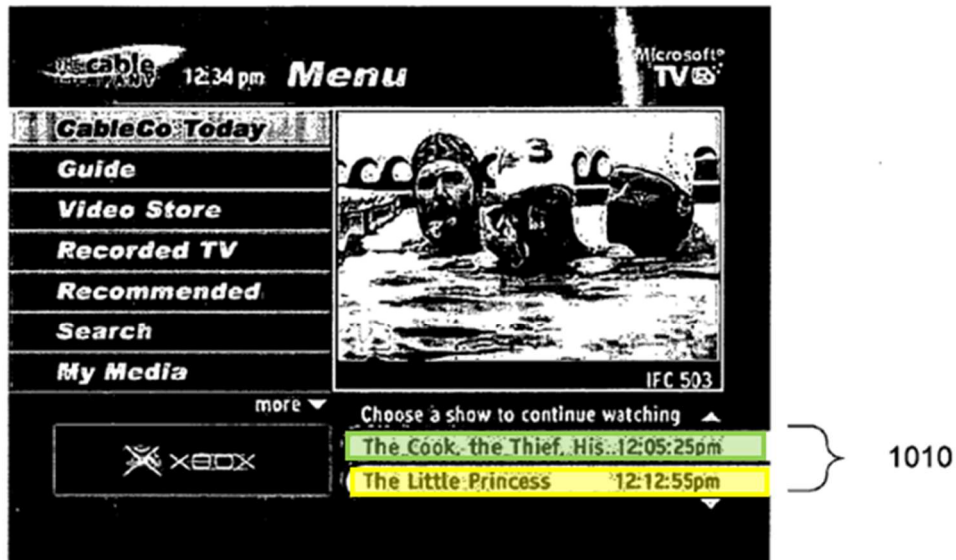


Fig. 10

- i. **Element 1[d][3]: wherein selecting the first user-selectable link causes a first option for generating display the first serial program at the first progress point to be displayed, and**

109. In my opinion, Tecot-Lee teaches Element 1[d][3].

110. Tecot teaches that selecting the first user-selectable link causes a first option for generating for display the first serial program at the first progress point to be displayed for the reasons described in Section XI.A.2.g. *See also* Ex-1006 ¶¶147-152, Fig. 6. Additionally, Tecot teaches that when a user “queries for information about a particular multimedia content,” “a resume option is provided if there is a bookmark stored for that program,” and “[i]f there is more than one bookmark for a particular program, then option to ‘resume from...’ is provided so that the user may select which bookmark.” Ex-1006 ¶94. “If the user selects the ‘resume from...’

option, an interface containing the list of locations is presented,” as shown in Figure 7 below. Ex-1006 ¶94, Fig. 7.



Fig. 7

111. In my opinion, A POSITA would thus have understood that when the user selects the first user-selectable link shown in Figures 9-10 (green, below), a first option for generating for display the first serial program at the first progress point is displayed such as that shown in Figure 7 above, where the user can choose a location to resume viewing from, given Tecot’s teaching that “FIGS. 7-13 illustrate examples of GUIs that may be employed by the exemplary resumption architecture” and “variations of these exemplary GUIs may be employed.” Ex-1006 ¶155.

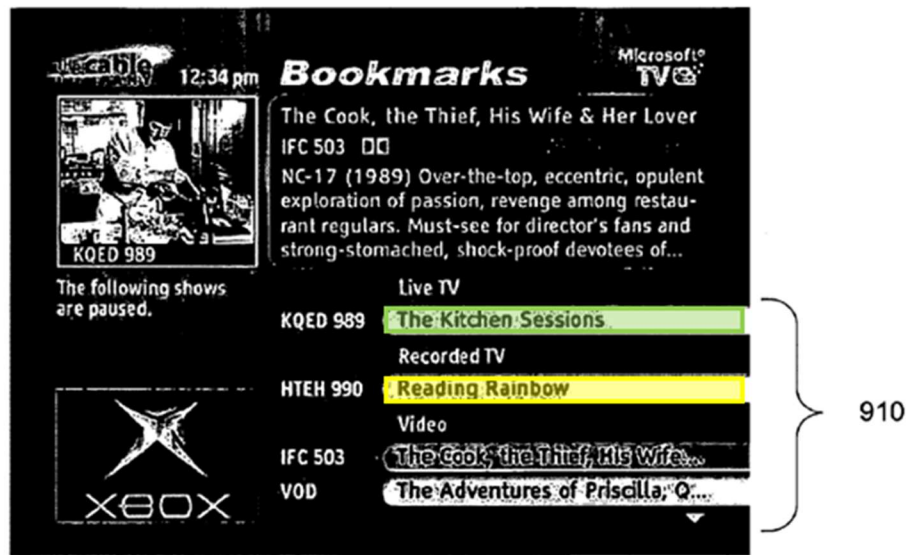


Fig. 9

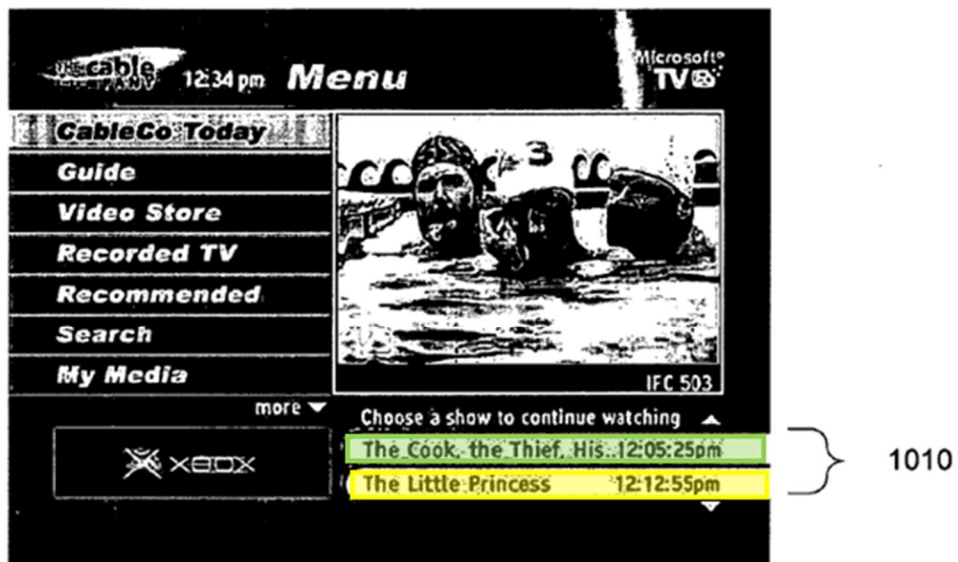


Fig. 10

112. As I also explained in the Technological Background section of my Declaration (*see* Section VII.D), selecting the user-selectable links causes the serial programs to be generated for display at the progress points was a well-known

concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶64; Ex-1021 (Sull) ¶167; Ex-1024 (Tecot'473), 7:41-8:1, 21:35-47; Ex-1026 (Ellis) ¶236.

- j. **Element 1[d][4]: wherein selecting the second user-selectable link causes a second option for generating for display the second serial program at the second progress point to be displayed;**

113. In my opinion, Tecot-Lee teaches Element 1[d][4] for the reasons described in the previous section and Section XI.A.2.h. Specifically, selecting either displayed program in Figures 9-10 will cause the system to respond in the same way, namely displaying a second option for generating for display the second serial program at the second progress point such as the display shown in Figure 7.

- k. **Element 1[e][1]: receiving a user selection of the first link;**

114. In my opinion, Tecot-Lee teaches Element 1[e][1].

115. Tecot teaches receiving a user selection of the first link for the reasons described in Sections XI.A.2.g and XI.A.2.i. Specifically, Tecot teaches that “the resume-locus system *receives an indication based on the user’s interaction that the user is ready to continue the bookmarked program.*” Ex-1006 ¶150, Fig. 6. For example, as shown in Figures 9 and 10 below, the user selects the first link “to continue watching” “The Kitchen Sessions” serial program (green) and “The Cook, the Thief, His Wife & Her Lover” (green), respectively. Ex-1006, Figs. 9-10.

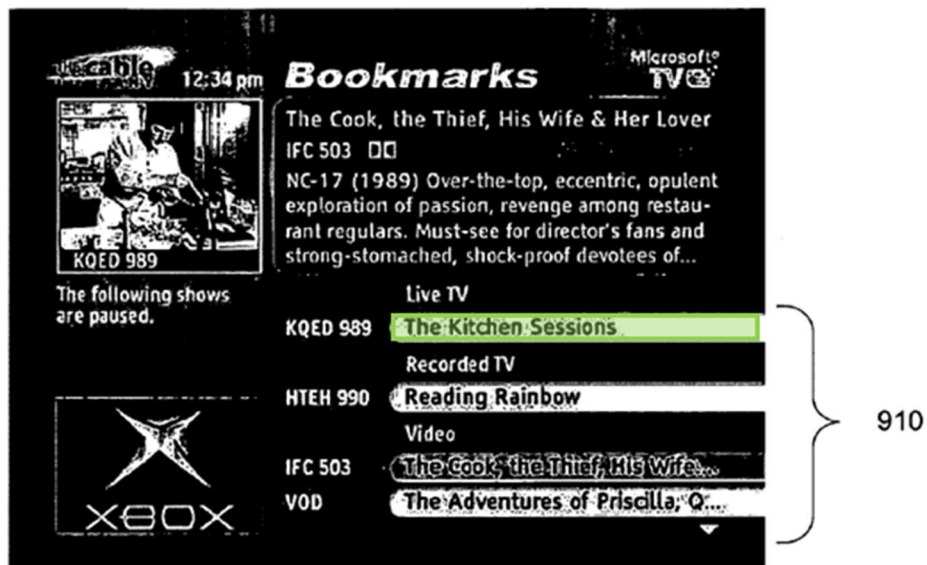


Fig. 9

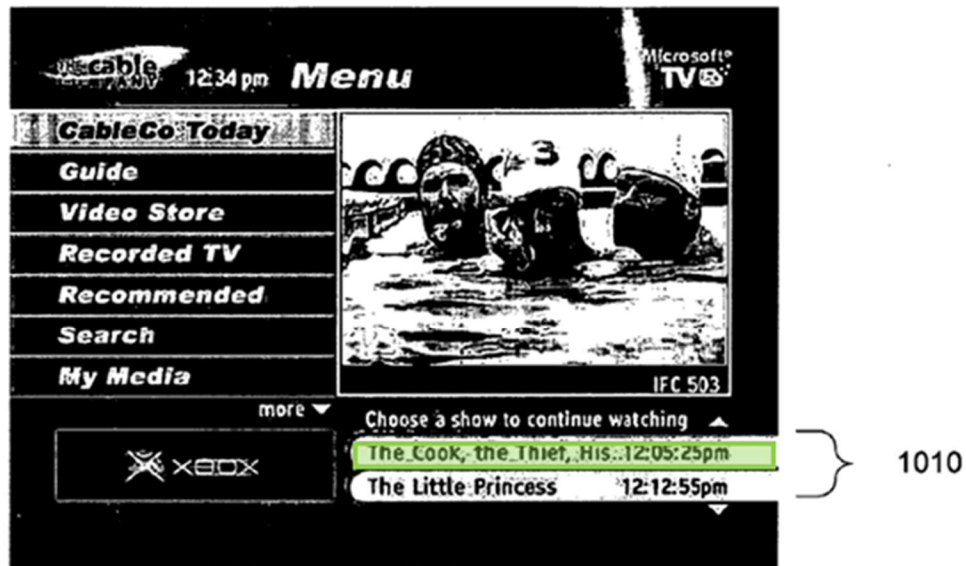


Fig. 10

1. Element 1[e][2]: in response to receiving the user selection of the first link, generating for display the first option;

116. In my opinion, Tecot-Lee teaches Element 1[e][2].

117. Tecot teaches in response to receiving the user selection of the first link, generating for display the first option for the reasons described in Section XI.A.2.i. Specifically, Tecot teaches that “[i]f the user selects the ‘resume from...’ option,” for a serial program, “an interface containing the list of [bookmarked] locations is presented.” Ex-1006 ¶94. For example, as shown in Figure 7 below, “each different bookmark” for Lord of the Rings “is identified by the location where the presentation was bookmarked” and “the GUI asks from where the user would like to resume.” Ex-1006 ¶158, Fig. 7. A POSITA would thus have understood that when the user selects the first link shown in Figures 9-10 to continue watching the first serial program, a first option is generated for display, where the user can choose a bookmarked location to resume viewing. Ex-1006 ¶155, Fig. 7.

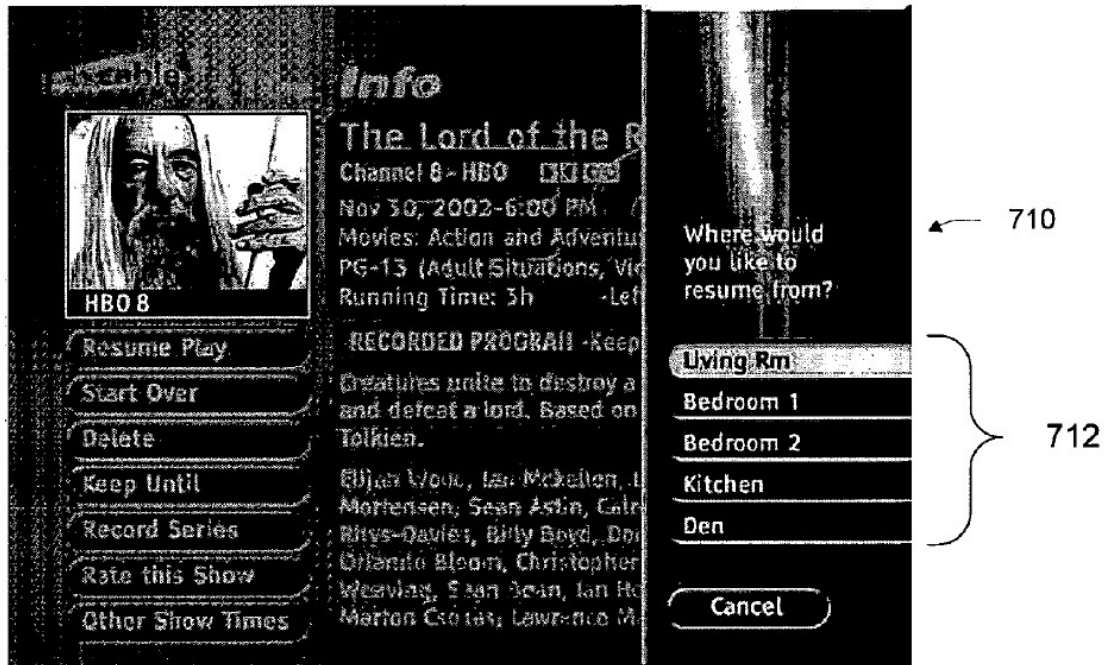


Fig. 7

- m. **Element 1[e][3]: receiving a user selection of the first option; and**

118. In my opinion, Tecot-Lee teaches Element 1[e][3].

119. Tecot teaches that the GUI in Figure 7 includes “selectable option[s]” for the user to choose from to resume the bookmark. Ex-1006 ¶164. Tecot further teaches that the “‘resume from...’ GUI may be a simple message (such as ‘Resume Bookmarked Program?’) presented on the screen of the resume-locus system and have simple ‘OK’ and ‘cancel’ options.” Ex-1006 ¶185.

- n. **Element 1[f]: in response to receiving the user selection of the first option, generating for display the serial program at the first progress point.**

120. In my opinion, Tecot-Lee teaches Element 1[f].

121. Tecot teaches in response to receiving the user selection of the first option, generating for display the first serial program at the first progress point for the reasons described in Sections XI.A.2.g., XI.A.2.i., and XI.A.2.k.-XI.A.2.m. Specifically, Tecot teaches that upon receiving the user's selection "to continue watching" a bookmarked program on the GUI such as that displayed in Figures 9-10, the system "requests the bookmarked program from the multimedia hub from the point of the bookmark," "receives from the hub the particular program from the point of the bookmark," and "*presents the program from that point.*" Ex-1006 ¶¶151-152, Figs. 6, 9-10.

122. Thus, Tecot-Lee renders obvious Claim 1.

3. Dependent Claims 2-5

- a. Claim 2: The method of claim 1, wherein the first link and the second link are associated with a first cell and a second cell, respectively.**

123. In my opinion, Tecot-Lee teaches Claim 2.

124. Tecot teaches that the first link and second link are associated with a first cell and a second cell, respectively. The term "cell" does not appear anywhere in the '324 Patent other than certain dependent claims, nor does the specification define the term. However, in connection with Figure 12, the '324 Patent explains that "current viewing progress" for a number of programs are displayed in a "column 1206." Ex-1001, 26:27-29. A POSITA would have thus understood that organizing

the progress links into columns, in which each program's progress entry is a "cell" in the column, would have been covered by these claims. Accordingly, Tecot's first and second links at 1010 in Figure 10 below, which are organized together in the same column and which may be selected by the user to start the respective program, correspond to the recited "first cell" and "second cell" because they are designated buttons in a column, as shown in the '324 Patent. *See also* Ex-1006, Figs. 7-13 (showing different GUI presentations of bookmarked programs); Section XI.A.2.h (explaining that Tecot's serial programs could be displayed in any of the exemplary GUI formats). Indeed, the area at the intersection of a particular row and column is commonly known as a "cell," such as in a spreadsheet.

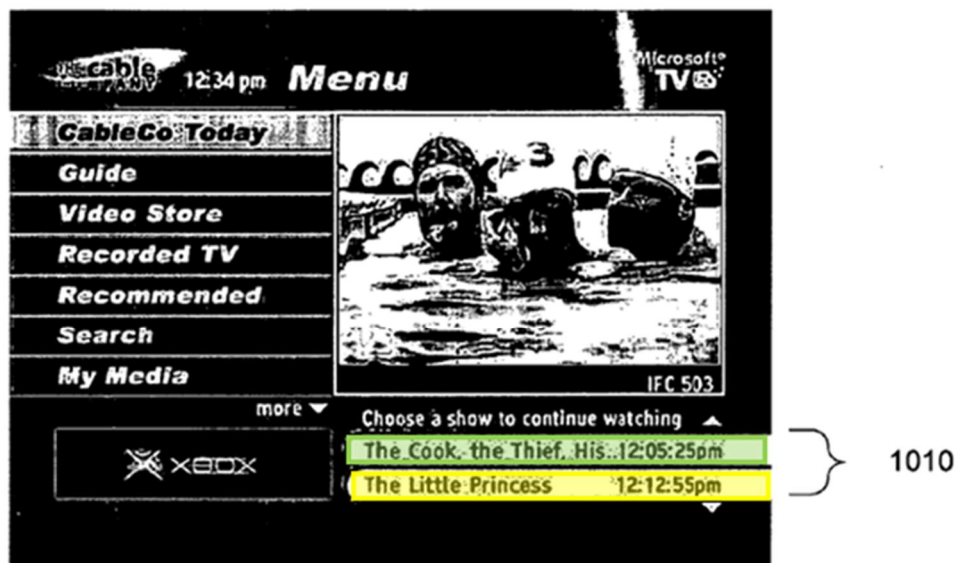


Fig. 10

125. As I also explained in the Technological Background section of my Declaration (*see* Section VII.E), associating the links with a plurality of cells was a

well-known concept by 2005. *See, e.g.*, Ex-1023 (Klarfeld) ¶3321; Ex-1035 (Moir) ¶17.

- b. Claim 3: The method of claim 2, wherein the first cell and the second cell are included in a plurality of cells, wherein the plurality of cells are arranged in rows and columns.**

126. In my opinion, Tecot-Lee teaches Claim 3.

127. Tecot teaches that the first cell and the second cell are included in a plurality of cells, wherein the plurality of cells are arranged in rows and columns. As shown in Figures 11-12, below, Tecot teaches that the GUI may “display a grid of broadcast media programming,” which includes “a ‘bookmark’ icon for the broadcast media that is currently bookmarked.” Ex-1006 ¶¶181-182. In Figure 11’s GUI, for example, “KGO (channel 7) is currently showing ‘General Hospital’ at 1110,” which is a serial program that has been bookmarked (as demonstrated by bookmark icon 1112 circled on the grid) and “the amount of time left from the bookmarked location in the bookmarked broadcast media program” is displayed at 1114. Ex-1006 ¶182, Fig. 11; *see also id.*, Fig. 12 (showing bookmark icon 1212 “in a multiple grid view”).

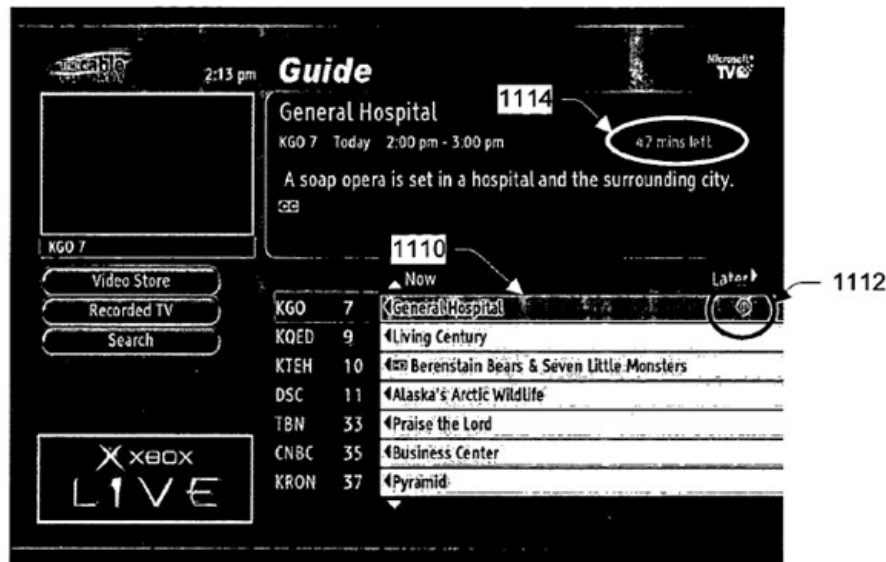


Fig. 11

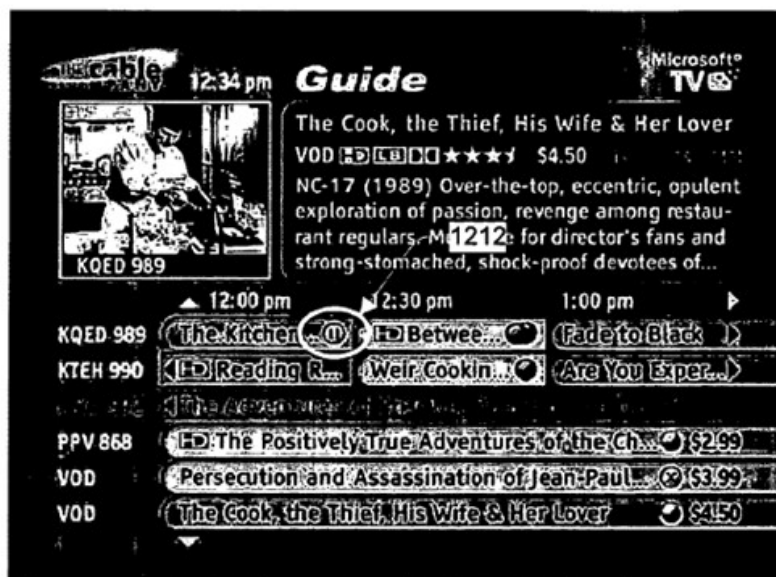


Fig. 12

128. The grid view comprises a plurality of cells that are arranged in rows and columns. For example, the rows correspond to channel numbers for the programs and the columns correspond to the time of the programs. When the user

selects a bookmarked serial program on the guide, such as “The Kitchen Sessions” in Figure 12, the user is brought to the bookmarked location in the program to resume viewing. Thus, the first and second cells are included in a plurality of cells that are arranged in rows and columns.

129. As I also explained in the Technological Background section of my Declaration (*see* Section VII.E), arranging the links in rows and columns was a well-known concept by 2005. *See, e.g.*, Ex-1023 (Klarfeld) ¶3321; Ex-1035 (Moir) ¶17.

c. Claim 4: The method of claim 1, further comprising automatically presenting an unwatched episode in the first serial program in response to a user selecting the first link.

130. In my opinion, Tecot-Lee teaches Claim 4.

131. Tecot teaches a user selecting the first link for the reasons described in Section XI.A.2.k. Moreover, as explained for Claim 1 (*e.g.*, Sections XI.A.2.b-XI.A.2.c and XI.A.2.g-XI.A.2.h), Tecot teaches bookmarking progress points in a plurality of serial programs such as General Hospital, The Kitchen Sessions with Charlie Trott, and Reading Rainbow for the user to resume viewing from later and that its bookmarking teachings apply to VOD. Specifically, Tecot teaches designated actions that may trigger a bookmark to be created at the current point in a program for later resumption including if “[w]hile watching a VOD program, the user chooses to watch a broadcast media channel; the user goes to recorded shows list and starts watching a recorded show; *the user goes to a VOD menu and selects to*

watch another VOD program; or the user goes to a page without a TV control (e.g., the user has accessed a user interface which does not present the current video stream); *the user presses the ‘pause’ key or a dedicated ‘bookmark’ key* (on a remote control, on the system, or via a GUI).” Ex-1006 ¶¶117-122, 169 (“there may be more [programs] that the user may scroll up or down to see”), Fig. 9 (displaying bookmarks for “Recorded TV” serial programs such as “Reading Rainbow”). Additionally, as shown in Fig. 7 below, Tecot gives the user the option to record an entire series, such as the “Record Series” option shown on the GUI for Lord of the Rings movie trilogy. Ex-1006, Fig. 7. It would have been obvious that the “Record Series” option shown on Figure 7’s GUI would also be provided for serial TV programs such as “Reading Rainbow.” Tecot is silent on how a subsequent recorded or VOD episode in a series will begin, but that teaching comes from Lee.

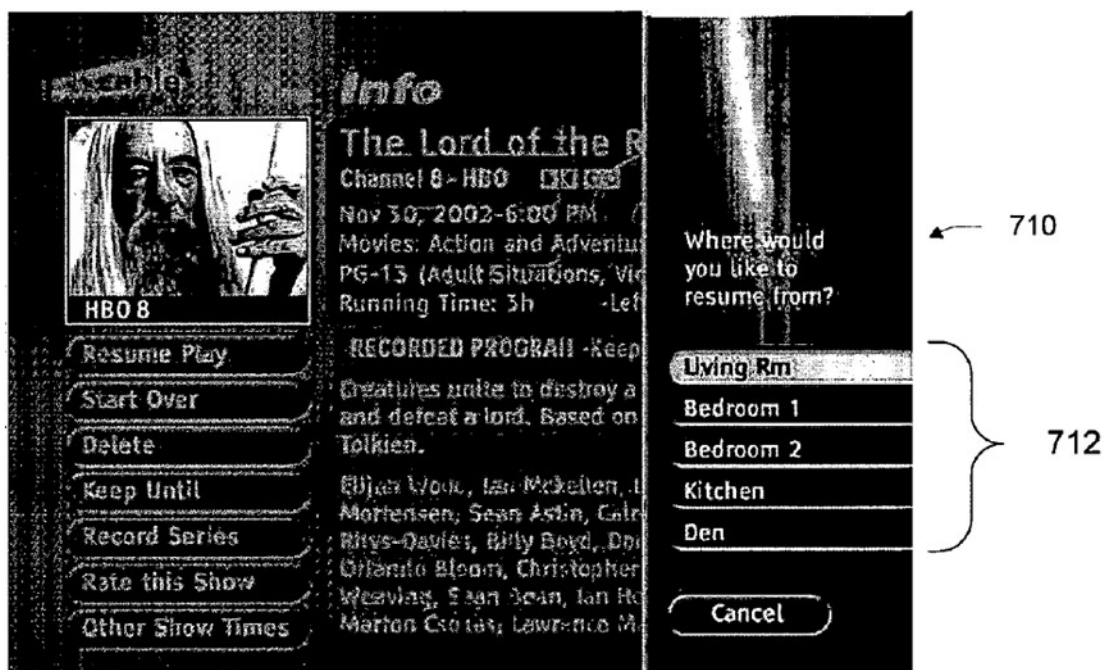


Fig. 7

132. Lee teaches automatically presenting the next unwatched episode in the first serial program. Specifically, Lee teaches that when “the type of requested program is a series, i.e. comes in a plurality of video programs,” “the last position of the video program viewed by the user is written in the profile, even if one video program has been viewed without interruption.” Ex-1008, 5:10-15. Therefore, “the user can continuously view the remaining video programs to complete viewing the whole series.” Ex-1008, 5:15-17. As shown in Figures 3A-3B below, for example, “the first row of the profile structure indicates that a video program ‘P13 (RED)’ of a Type 1 has been viewed up to ‘#10325.’” Ex-1008, 5:17-19. And “[t]he second row of the profile structure indicates that a video program ‘S02(RED)’ of a series is

to be viewed next and from the beginning, i.e. the user completed viewing the video programs in the series prior to the ‘S02(RED).’” Ex-1008, 5:19-23.

FIG.3A

Video ID	POSITION
P13 (RED)	#10325

FIG.3B

Video Type	Video ID	POSITION
Type 1	P13 (RED)	#10325
Series	S02(RED)	#0

133. In the Tecot-Lee combination, when the user has recorded two or more episodes of a serial program, such as a TV or movie series (like Reading Rainbow or Lord of the Rings), or when the user is watching a VOD presentation of a serial program, such as Reading Rainbow, and the user selects the first user-selectable link corresponding to the first episode of the program, which the system determines has been viewed without interruption, the next unwatched recorded or VOD episode in the series will be automatically presented, as taught by Lee. In addition to the reasons described in Section XI.A.1, a POSITA would have been motivated to implement this feature in Tecot’s system, as taught by Lee, because it streamlines the user’s experience by avoiding having to navigate back through links on the GUI to the main program series page to select the next episode in the series. For example, when a user selects to record all of the episodes in a series using the “Record Series” button

in Tecot's exemplary GUI in Figure 7 above, a GUI page would be presented summarizing the series and listing all the available episodes in the series in order along with the episode title. Such a page would also feature a "Continue Watching" button, as shown in Tecot's exemplary GUI in Figure 10, that would start playback at the earliest series bookmark and continuously play episodes of the series in order.

134. As I also explained in the Technological Background section of my Declaration (*see* Section VII.F), automatically presenting an unwatched episode in the serial program in response to a user's selection of a link was a well-known concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶¶61-62; Ex-1026 (Ellis), Fig. 11; Ex-1038 (Stark) ¶¶20, 55; Ex-1028 (Ellis-2) ¶¶73, 145, Fig. 14e; Ex-1037 (Ellis-3) ¶¶173, 199; Ex-1030 (Ellis-4) ¶¶110-111, 118.

d. Claim 5: The method of claim 1, further comprising presenting a summary region associated with the first serial program.

135. In my opinion, Tecot-Lee teaches Claim 5.

136. Tecot teaches presenting a summary region associated with the first serial program. For example, as shown in Figures 11-12 below, a summary region is presented at the top of the GUI display, which summarizes the currently highlighted first serial program, "General Hospital" and the film "The Cook, the Thief, His Wife & Her Lover," respectively. Ex-1006, Figs. 11-12. A POSITA would have understood that the summary region for "General Hospital" would provide a longer

summary, such as in Figure 12, because Tecot teaches that “variations of these exemplary GUIs may be employed.” Ex-1006 ¶155. A POSITA would have been motivated to include a longer summary for a serial program such as General Hospital, because serial programs by their nature have long running storylines that often span multiple episodes, lending themselves to longer and more detailed summaries. Furthermore, with some serial programs such as General Hospital releasing new episodes daily, users may miss episodes and desire to stay up to date by reading a detailed summary.

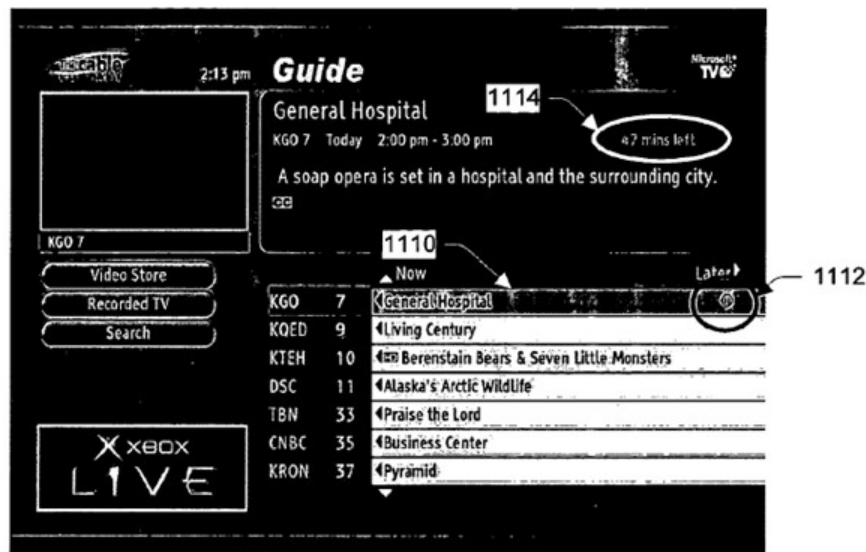


Fig. 11

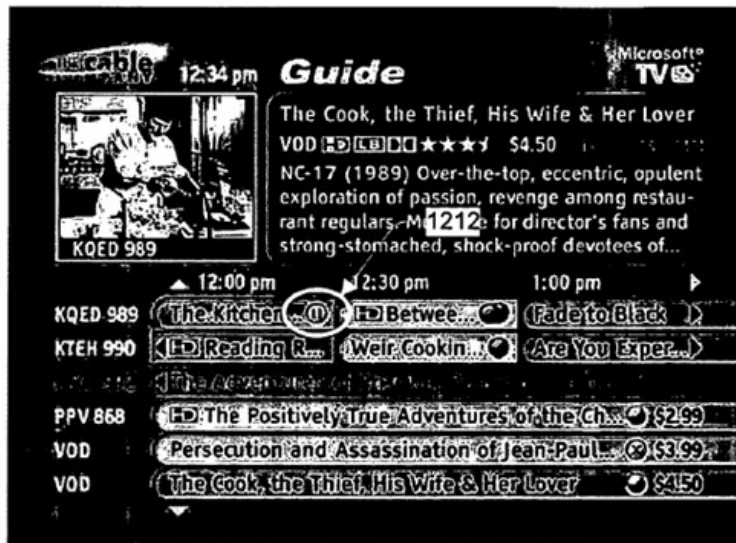


Fig. 12

B. Ground 2: Claim 6 is obvious over Tecot-Lee in view of McElhatten.

1. Dependent Claim 6: The method of claim 1, wherein the summary region indicates a predefined viewing order for the first serial program.

137. In my opinion, Tecot-Lee in view of McElhatten (“Tecot-Lee-McElhatten”) teaches Claim 6.

138. Tecot does not explicitly teach that the summary region indicates a predefined viewing order for the first serial program but this is taught by Lee and McElhatten.

139. Lee teaches that “when resuming to view a program, *allowing the user to view a summary of the previously viewed program* would refresh the user’s memory for a more enjoyable viewing of the remaining program.” Ex-1008, 5:51-54. Thus, Lee teaches that video server 1 “*utilizes a digest information* when a user

wishes *to view a summary* before resuming to view a program.” Ex-1008, 5:55-57. The “*digest information is constructed in advance* for each video program” such that “when a user stops viewing a program in the middle of the program, the control unit 4 constructs a summary of the corresponding video program utilizing the digest information” and “*transmits the summary* to the user terminal 2 through the buffer 5, *when the user resumes viewing of the program.*” Ex-1008, 5:57-65. Lee’s Figure 4 below, illustrates “a digest information structure with three levels of detail,” where each level includes a plurality of video segments 1-n, and “*each segment summarizes the contents of a corresponding time segment* of a program, thereby summarizing the whole program.” Ex-1008, 6:1-5, Fig. 4. Moreover, “*as the level increases* from 01 to 03, *the detail of the summary in each segment rises*, increasing the display time of the digest information.” Ex-1008, 6:5-8; *see also id.*, Fig. 5, 6:34-37 (“shows another digest information structure where ... text annotation, is provided in addition to the video segments of the digest information in Fig. 4”). “In other words, *a video digest information of the contents of the previously viewed video program is displayed by sequentially* connecting the important sections from the beginning to the interrupted position of the video program.” Ex-1008, 6:22-25. As also explained in Sections XI.A.2.b-XI.A.2.c, Lee’s teachings apply to “series” programs such that “the user can continuously view the remaining video programs to complete viewing the whole series.” Ex-1008, 5:10-23. Thus, a POSITA would

have understood that Lee's program summary constructed in advance, when applied to a series, indicates a predefined viewing order for the first serial program by listing the unwatched episodes in order in which they were originally presented.

FIG.4

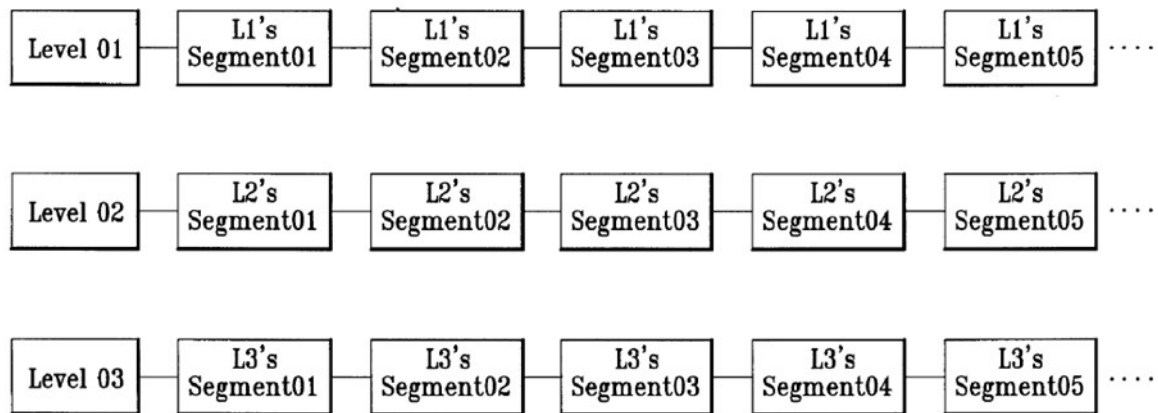
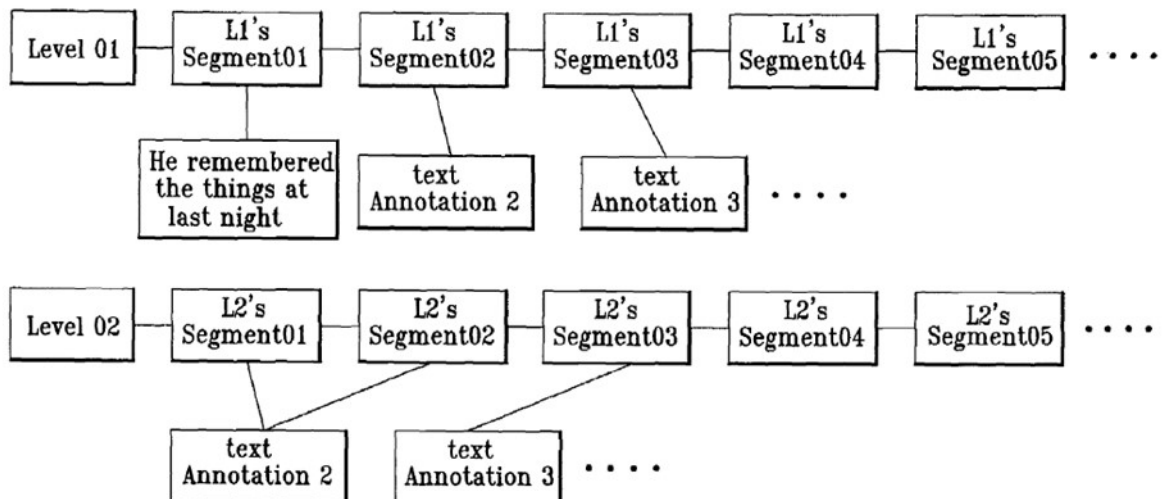
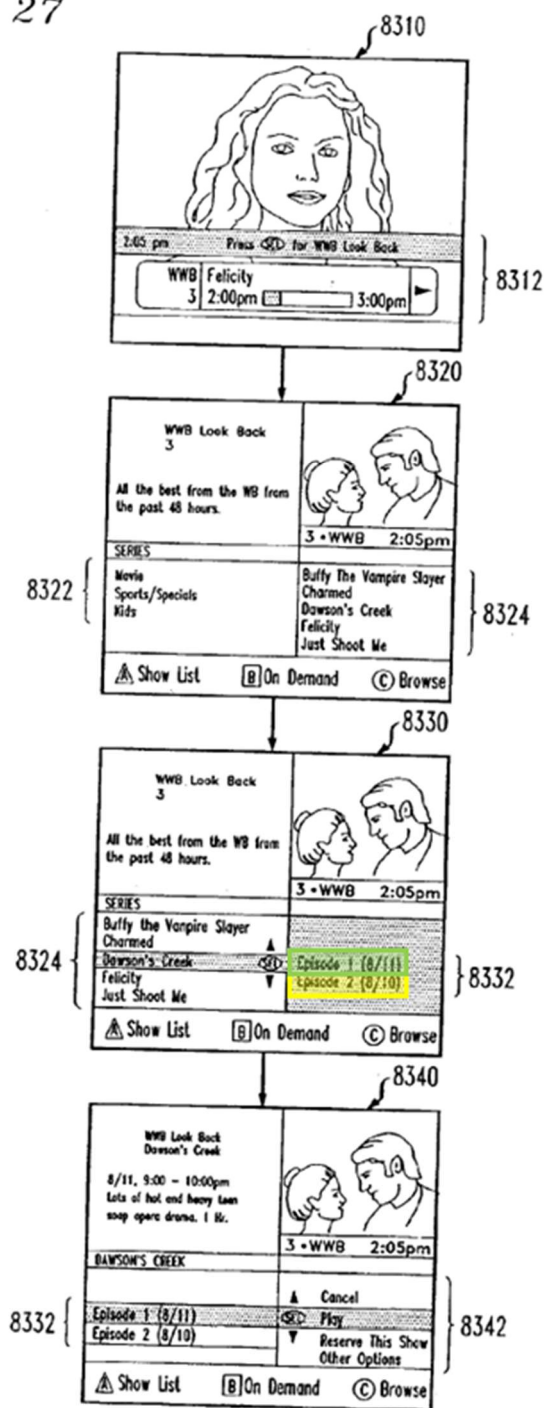


FIG.5



140. To the extent PO argues that the predefined order must include an episode number, this is taught by McElhatten. As shown in annotated Figure 27 below, McElhatten teaches “Lookback Programming GUI 8330,” which lists available programs and “[a]s the user highlights a listed program, episodes 8332 that are available through the Lookback feature are listed on the right side of GUI 8330.” Ex-1010 ¶164, Fig. 27. When the user selects “a program by pressing select key 960 of remote control 900,” the GUI lists on the left side “episodes 8332 that are available for the selected program” and “[a]s the user highlights a listed episode, reservation/play options 8344 that are available through the Lookback feature are listed on the right side of GUI 8340,” such as, for example “playing the selected episode, reserving the selected episode, etc.” Ex-1010 ¶165. In the example below, when the user selects the Dawson’s Creek series, Episode 1 (green) and Episode 2 (yellow) are shown on the display. Ex-1010, Fig. 27.

FIG. 27



141. In the Tecot-Lee-McElhatten combination, Tecot's summary region shown in exemplary Figures 11-12 (see Section XI.A.3.c) would indicate a

predefined viewing order for the first serial program by providing an episode-specific summary, as taught by Lee, and an episode number, as taught by McElhatten. For example, the General Hospital summary region provided in Tecot's Figure 11 would include details pertaining to the specific episode that was bookmarked in the series and an episode number indicating a predefined order, allowing the user to quickly understand how far into this season this episode is positioned.

142. A POSITA would have been motivated to implement these features in Tecot's system because they "would refresh the user's memory for a more enjoyable viewing of the" remainder of the program (Ex-1008, 5:51-54), avoid spoilers for content the user has not yet viewed, and allow the user to watch the series in order. Indeed, Tecot already teaches that its GUI may list the "identity of the multimedia content" (Ex-1006 ¶¶170-171) and provides a textual summary of the series (Ex-1006, Fig. 11). A POSITA would have understood that an episode number is another way to identify the content partly by contextualizing the episode within a season and would have found it obvious to include with the summary.

143. A POSITA would have been motivated to combine the teachings of Tecot-Lee and McElhatten and had a reasonable expectation of success in doing so because all three relate to methods for presenting multimedia content, which include enabling a user to resume viewing such content from an interrupted position, using

similar hardware and software components. Ex-1006, Abstract; Ex-1008, Abstract; Ex-1010 ¶¶77-78. Moreover, all three provide similar interactive services to the users including the ability to view recorded programs, stored programs, VOD programs, and/or broadcast media programs. Ex-1006 ¶¶111-126, Abstract; Ex-1008, Abstract; Ex-1010, Abstract, ¶84. A POSITA would thus have understood that these references disclose interrelated teachings based on well-understood technologies that would have been amenable to various well-understood and predictable combinations.

144. As I also explained in the Technological Background section of my Declaration (*see* Section VII.G), presenting a summary region associated with the serial program, which indicates a predefined viewing order was a well-known concept by 2005. *See, e.g.*, Ex-1036 (Orr) ¶¶7, 23; Ex-1027 (Cassin) ¶150, Fig. 7a; Ex-1029 (Simms) ¶29; Ex-1026 (Ellis), Fig. 11.

C. Ground 3: Claims 1-5 are obvious over Logan in view of Poslinski.

1. A POSITA would have been motivated to combine Logan's teachings with Poslinski's teachings and would have had a reasonable expectation of success.

145. In my opinion, a POSITA would have been motivated to combine the teachings of Logan and Poslinski and had a reasonable expectation of success in doing so because each relates to methods for presenting multimedia content, which

include enabling a user to resume viewing such content from an interrupted position. Ex-1005, Title, 30:55-31:2; Ex-1007, Abstract.

146. Logan teaches “[a]n audio program and message distribution system,” which compiles a usage log “to record the subscriber’s use of the provided program materials” and “adaptively modify the subscriber’s preferences based on actual usage.” Ex-1005, Abstract. Each “playback session begins with the presentation of an audio (and/or displayed) menu which allows the user to jump to any program segment within that sequence to start (or resume) playback.” Ex-1005, 11:16-20. Moreover, “a session usage log is recorded during the playback session to identify every segment actually played.” Ex-1005, 8:3-7. Logan further teaches that the programming options presented to the user “may include serialized sequences of programs” such as “an episode in a series.” Ex-1005, 18:43-45. A POSITA would have thus understood that Logan teaches tracking, storing, and displaying the user’s viewing progress of “programs” (plural) included in a session. As Logan teaches that the log is used in part for subscriber and advertiser billing (Ex-1005, Abstract, 6:27-35, 16:2-5, 26:45-48, 27:26-31, 27:60-63), a POSITA would have understood that the log captures all viewing activity, including that of all serial programs viewed, so that billing is based on total activity to ensure accuracy. While Logan does not explicitly describe generating a *video* program such as a TV series for display, it would have been obvious that Logan’s system would have been able to do so, given

Logan’s teaching that its CPU is “preferably connected to a conventional personal computer video display.” Ex-1005, 4:17-18. A POSITA would have understood that the operations performed for audio content apply equally well to video content, including tracking viewing activity, and billing subscribers and advertisers.

147. Poslinski teaches methods “for use in controlling the display of information relative to the playback of programming content.” Ex-1007 ¶6. As shown in annotated Figure 20 below, Poslinski teaches that progress bar 2030 is “displayed showing the status of the main program 2022,” including “the amount of the main program already viewed 2032, and the amount of the main program remaining to be viewed 2034.” Ex-1007 ¶97, Fig. 20 (yellow). Poslinski further teaches that “one or more additional progress bars 2040 is/are further displayed showing a lapsed time 2042 and a remaining time 2044 for one or more secondary programs 2024.” Ex-1007 ¶97, Fig. 20 (green). Moreover, “[t]he user can switch the focus to other playback (and/or record) applications by shifting the focus/highlighting [] to other progress bars ... using up and/or down arrow keys.” Ex-1007 ¶106. Poslinski’s embodiments include digital video recorder (“DVR”) applications “that allow the recording and playback of received programming content” (Ex-1007 ¶98) such as television programming and movies (Ex-1007 ¶2).

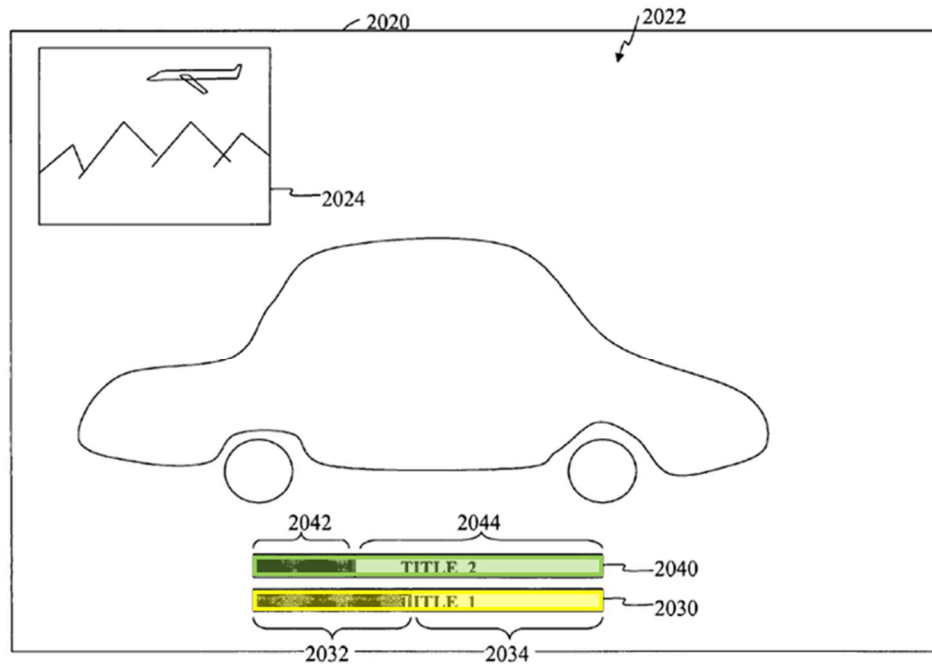


FIG. 20

148. A POSITA would have been motivated to generate a serial *video* program for display in Logan’s system, as taught by Poslinski, because as Logan acknowledges, “a rich collection of data files which digitally record text, graphic, audio and video information” was already available on the World Wide Web at the time. Ex-1005 1:9-11. And, as explained above, Logan’s system includes video display capabilities. Additionally, to the extent PO argues that Logan’s serial “programs” do not explicitly recite “a *second* serial program,” a POSITA would have been motivated to implement Poslinski’s teachings to track, store, and display for selection the user’s viewing progress of both a main and secondary program in Logan’s system. This would allow the user the flexibility to view multiple programs at once on their own schedule, pausing and resuming at their leisure, thus enhancing

the user's experience. In the Logan-Poslinski combination, Logan's serial "programs" teachings would explicitly include multiple serial programs (e.g., at least a first and second program), as taught by Poslinski.

149. A POSITA would have had a reasonable expectation of success in combining the teachings of Logan and Poslinski. Both describe enabling a user to resume viewing such content from an interrupted position using similar hardware and software components. Ex-1005, Title, 30:55-31:2, Fig. 1; Ex-1007, Abstract, Fig. 2. A POSITA would thus have understood that these references disclose interrelated teachings based on well-understood technologies that would have been amenable to various well-understood and predictable combinations.

2. Independent Claim 1

a. Element 1[pre]: A method for presenting media content based on a user's viewing progress within serial programs on user equipment, the method comprising:

150. In my opinion, Logan in view of Poslinski ("Logan-Poslinski") teaches the preamble.

151. Logan teaches "[a]n audio program and message distribution system," which compiles a usage log "to record the subscriber's use of the provided program materials" and "adaptively modify the subscriber's preferences based on actual usage." Ex-1005, Abstract. Each "playback session begins with the presentation of an audio (and/or displayed) menu which allows the user to jump to any program

segment within that sequence to start (or resume) playback.” Ex-1005, 11:16-20. Logan further teaches that the programming options presented to the user “may include serialized sequences of programs” such as “an episode in a series.” Ex-1005, 18:43-45. The user views the programs (i.e., media content) on a “player device” such as “a conventional laptop or desktop personal computer.” Ex-1005, 3:24-32. Logan thus teaches the “serial program” limitation regardless of which construction is applied, because an episode in a serialized sequence program is “related programming containing a temporal component connecting episodes” and has “a recommended order of viewing.”

152. Poslinski teaches a method for displaying multimedia content “such as television programming, movies, and other such multimedia content.” Ex-1007 ¶¶1-2. Moreover, Poslinski teaches displaying progress bars corresponding to a main program and a secondary program on a display screen, which indicate the amount of program that has already been viewed and the amount of the program remaining to be viewed. Ex-1007 ¶97, Fig. 20. A POSITA would have been motivated to combine Logan-Poslinski and had a reasonable expectation of success in doing so for the reasons described in Section XI.C.1.

153. As I also explained in the Technological Background section of my Declaration (*see* Section VII.A), presenting media content based on a user’s viewing progress within serial programs on user equipment was a well-known concept by

2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶¶59-60, 62; Ex-1031 (Poslinski'132), 8:47-49, 8:49-58, Cl. 30; Ex-1032 (Broadus), Abstract; Ex-1024 (Tecot'473), 2:10–18; Ex-1021 (Sull) ¶167, Figs. 6, 10-13.

b. Element 1[a][1]: creating, using control circuitry, a media profile comprising a first viewing progress within a first serial program and

154. Logan-Poslinski teaches Element 1[a][1].

155. Logan teaches that a prospective subscriber establishes a new account by using “a conventional web browser program,” which executes in the user’s CPU “to establish a conventional HTTP request/response dialog with” the server. Ex-1005, 9:6-10. The user completes an HTML form received from a web page store using the user’s CPU, which is then transmitted “using a HTTP post method directed at a form processing CGI script executed by the server ... to place descriptive information about the user in an assigned user data file.” Ex-1005, 9:10-18. After the user’s account has been created, “utility programs and data may be downloaded from the FTP server” to the user’s player device. Ex-1005, 9:18-20.

156. Logan further teaches that the host server 101, annotated in green in Figure 1 below, “stores and maintains a user data and usage log database indicated at 143” (blue), “which *stores uploaded usage data received from the store 109*” (blue) in player 103 (purple) “via the Internet pathway 123 and the FTP server interface 125.” Ex-1005, 5:34-38, Fig. 1. The user data 143 also includes data

describing the user's "preferences, demographic characteristics and program selections unique to each subscriber which is developed largely from user-supplied data obtained when users submit HTML form data via the Internet pathway 123 for processing by the CGI mechanism 127." Ex-1005, 5:38-44.

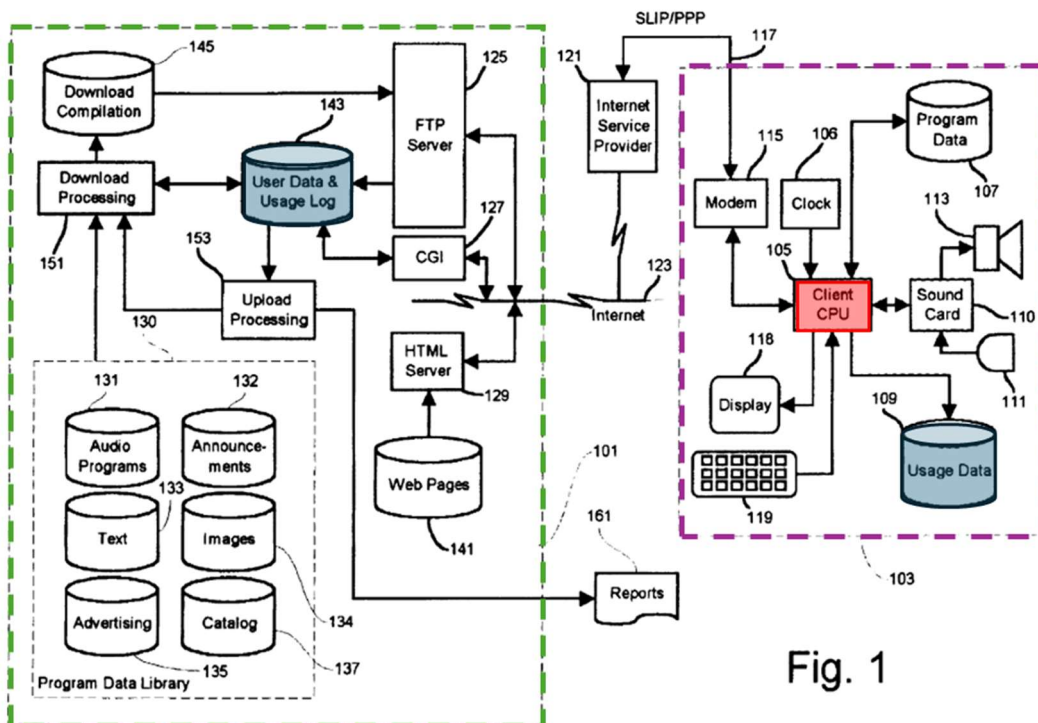


Fig. 1

157. The usage data 109 at player 103 and user data and usage log database 143 at server 101 together correspond to the recited "media profile" because, like the '324 Patent, they "track[] a user's viewing progress as the user advances through a series of related programming or a collection of media content." Ex-1001, 2:35-38; *see also id.*, 9:32-35 (media profile "may be stored locally on the user equipment or on a network device (e.g., server 130 and/or server 140)"). For example, Logan teaches that "the playback utility program executing on the client CPU 105 ... begins

the session by requesting the entry of a password ... for access to the utility programs used to modify the subscriber's personal data, future program selections, *and current program selections and sequencing.*" Ex-1005, 10:42-53. The user is then presented with "an audio (and/or displayed) menu which *allows the user to* jump to any program segment within that sequence to start (or *resume*) *playback.*" Ex-1005, 11:16-20. Moreover, "a session usage log is recorded during the playback session to identify every segment actually played." Ex-1005, 8:3-7. The programming options presented to the user "may include serialized sequences of programs" such as "an episode in a series." Ex-1005, 18:43-45. The portion of the media profile located in usage data 109 at player 103 is created using control circuitry because player 103 is "implemented by a conventional laptop or desktop personal computer including a processor (the client CPU 105)." Ex-1005, 3:24-26, Fig. 1 (red).

158. While Logan teaches that the first serial program is an audio program, it would have been obvious to implement Logan's system to track a user's viewing progress in a video program, as taught by Poslinski, for the reasons described in Section XI.C.1. Poslinski teaches "the recording and playback of received programming content" (Ex-1007 ¶98) such as television programming and movies (Ex-1007 ¶2). Moreover, as I explained in the Technological Background section of my Declaration (*see* Section VII.B), creating and storing a media profile comprising a user's viewing progress within serial programs was a well-known concept by 2005.

See, e.g., Ex-1023 (Klarfeld) ¶¶14, 248, 3295; Ex-1026 (Ellis) ¶¶168, 175; Ex-1025 (Williamson) ¶¶12, 100-103, Figs. 1- 3, 15-16).

c. Element 1[a][2]: a second viewing progress within a second serial program;

159. In my opinion, Logan-Poslinski teaches Element 1[a][2].

160. Logan teaches that “[w]hen *programs are included in a current schedule* which are of particular interest, the subscriber may assign a priority value to the scheduled program.” Ex-1005, 8:12-14. Logan further teaches that each “playback session begins with the presentation of an audio (and/or displayed) menu which allows the user to *jump to any program segment within that sequence to start (or resume) playback.*” Ex-1005, 11:16-20. Moreover, “a session usage log is recorded during the playback session to *identify every segment actually played.*” Ex-1005, 8:3-7. The usage log contents are uploaded from the player to the server at the end of the session (Ex-1005, 8:39-42) and stored in the usage log database 143. A POSITA would thus have understood that Logan teaches tracking the progress of “programs” (plural) included in a session, meaning that the media profile comprises tracking the viewing progress of at least a first and second serial program. As Logan teaches that the log is used in part for subscriber and advertiser billing (Ex-1005, Abstract, 6:27-35, 16:2-5, 26:45-48, 27:26-31, 27:60-63), a POSITA would have understood that the log captures all viewing activity, including that of all serial programs viewed, so that billing is based on total activity to ensure accuracy.

161. Additionally, Poslinski explicitly teaches tracking the viewing progress of a second video program in addition to the first. As shown in annotated Figure 20 below, Poslinski teaches that progress bar 2030 is “displayed showing the status of the main program 2022,” including “the amount of the main program already viewed 2032, and the amount of the main program remaining to be viewed 2034.” Ex-1007 ¶97, Fig. 20 (yellow). Poslinski further teaches that “*one or more additional progress bars 2040* is/are further displayed showing a lapsed time 2042 and a remaining time 2044 *for one or more secondary programs 2024.*” Ex-1007 ¶97, Fig. 20 (green); *see also id.* ¶99 (“The present embodiments provide for the display of one or more progress bars, and/or a multi-level progress bar to be displayed on the main window of the display 2020 and/or in the program guide 710 showing the progress of currently viewed live programs, the progress of one or more playbacks of previously recorded programs, and/or the progress of one or more recordings of programs.”).

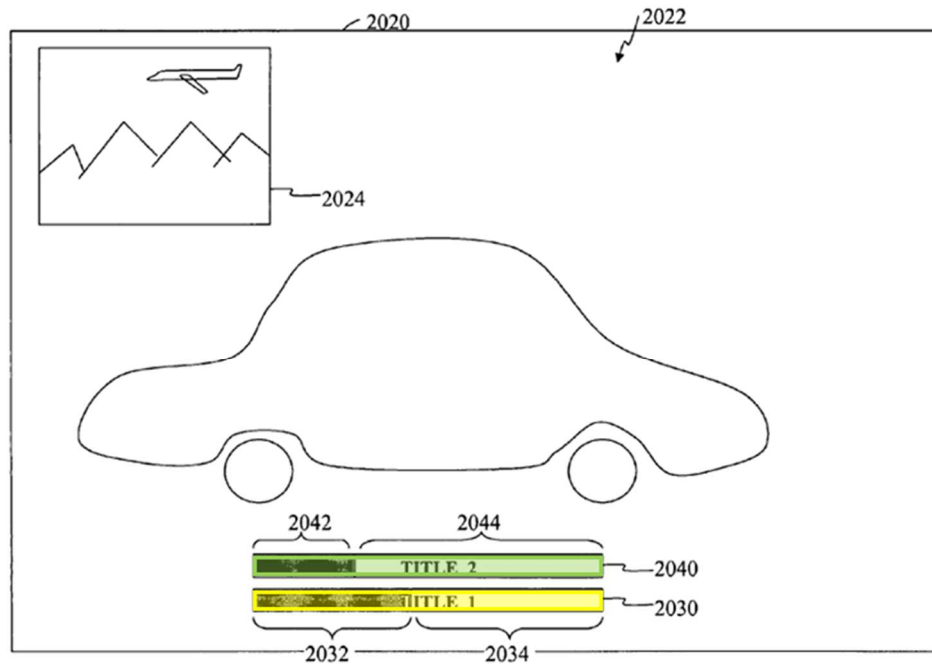


FIG. 20

162. In the Logan-Poslinski combination, Logan's suggestion to apply its teachings to programs (plural) would have been implemented in view of Poslinski's express teaching to track the viewing progress of at least two different video programs. For example, Logan's usage data 109 at player 103 and user data and usage log database indicated at 143 at server 101 (i.e., media profile) would explicitly include the user's second viewing progress within a second serial program, as taught by Poslinski (e.g., first progress bar 2030 and second progress bar 2040). *See also* Section VII.B.

d. Element 1[b]: storing the media profile in a storage device;

163. In my opinion, Logan-Poslinski teaches Element [b].

164. Logan teaches storing the media profile in a storage device because player 103 includes a “data storage system consisting of both high speed RAM storage and a persistent mass storage device, such as a magnetic disk memory ... for storing usage data at 109 which records the nature of the programming reproduced by the player 103.” Ex-1005, 3:24-32, Fig. 1 (blue). Moreover, user data and usage log 143 at server 101 is a database, which a POSITA would have understood is housed in a storage device. Ex-1005, 5:35-45, Fig. 1 (blue); *see also* Ex-1005, 6:36-7:2 (“It should be understood that numerous other information storage, processing and communications schemes may be substituted for the preferred Internet server and PC client player architecture shown in FIG. 1” such as “[a] dedicated host computer which communicates directly with client stations via dial up telephone facilities” and “the files downloaded from the host may be stored on a replaceable media, such as an optical disk cartridge, which may then be inserted into a portable computer or simplified player for mobile use.”). Indeed, this is also reflected in the common usage of a cylinder in block diagrams to reflect traditional storage (for example, for Audio Programs storage 131, Image storage 134, Text storage 133, and Advertising storage 135) and database storage (for example, User Data & Usage Log database 143) (as depicted in FIG. 1 below). *See also* Section VII.B.

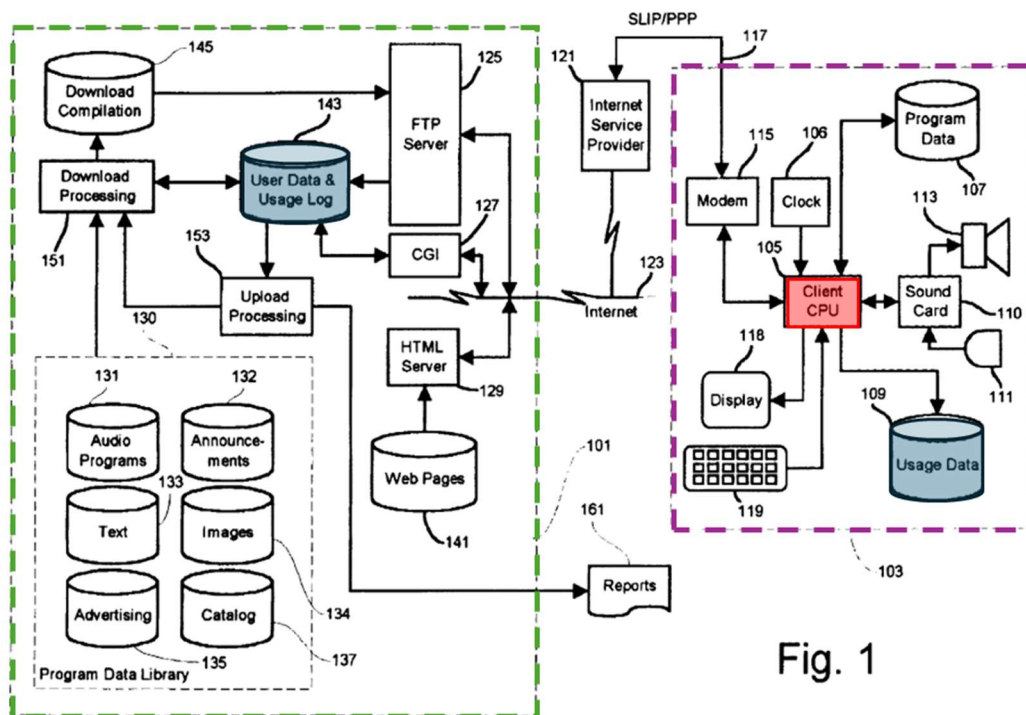


Fig. 1

- e. **Element 1[c][1]: determining, using the control circuitry, a first progress point in the first serial program based on the first viewing progress and**

165. In my opinion, Logan-Poslinski teaches Element 1[c][1].

166. Logan teaches determining a first progress point in the first serial program based on the first viewing progress. Logan teaches that “*a session usage log is recorded during the playback session to identify every segment actually played ... and the start and end times.*” Ex-1005, 8:3-7. Additionally, Logan teaches that “*[a]s playing progresses, the current playback position may be advantageously indicated by a variety of means*” such as “*by a simple numerical readout indicating the position on a scale of 1-100.*” Ex-1005, 11:35-40. The determination of the first progress point is made using control circuitry, as Logan teaches that its player 103

is implemented by a personal computer including a processor (CPU) running software that will “perform functions including ... recording of a usage log file identifying the program and advertising segments played and the start time, ending time, volume level and playing speed for each s(c) segment.” Ex-1005, 3:24-26, 9:18-27. Logan thus teaches the “[first/second] progress point” limitation under any construction, because its numerical readout of the playback position corresponds to the “user’s time position within an episode,” which would meet the plain and ordinary meaning of the term “progress point.”

167. As explained in Sections XI.C.1 and XI.C.2.b, it would have been obvious to implement Logan’s system to track a user’s viewing progress in a video program, as taught by Poslinski. Ex-1007 ¶¶2, 98.

168. As I also explained in the Technological Background section of my Declaration (*see* Section VII.A), determining a progress point in a serial program based on the user’s viewing progress was a well-known concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶¶59-60, 62; Ex-1031 (Poslinski’132), 8:47-49, 8:49-58, Cl. 30; Ex-1032 (Broadus), Abstract; Ex-1024 (Tecot’473), 2:10–18; Ex-1021 (Sull) ¶167, Figs. 6, 10-13.

f. Element 1[c][2]: a second progress point in the second serial program based on the second viewing progress;

169. In my opinion, Logan-Poslinski teaches Element 1[c][2].

170. Logan teaches determining a second progress point in the second serial program based on the second viewing progress for the reasons described in Sections XI.C.2.c and XI.C.2.e, namely, because it teaches tracking the progress of “programs” (plural) included in a session, meaning that player 103’s control circuitry determines at least a second progress point in the second serial program based on the second viewing progress.

171. Additionally, Poslinski explicitly teaches tracking the viewing progress of a second video program in addition to the first. Specifically, Poslinski teaches determining, using control circuitry, a second progress point in the second video program based on the second viewing progress. Poslinski teaches a processor that includes “*[o]ne or more progress bar generators 350 ... for generating status bars according to the status of one or more programs* being recorded, played back, and/or otherwise accessed by a user as fully described below.” Ex-1007 ¶42. As shown in annotated Figure 20 below, Poslinski teaches that progress bar 2030 is “displayed showing the status of the main program 2022,” including “the amount of the main program already viewed 2032, and the amount of the main program remaining to be viewed 2034.” Ex-1007 ¶97, Fig. 20 (yellow). Poslinski further teaches that “*one or more additional progress bars 2040* is/are further displayed showing a lapsed time 2042 and a remaining time 2044 *for one or more secondary*

programs 2024.” Ex-1007 ¶97, Fig. 20 (green); *see also id.* ¶¶99, 115 (“the status of each additional playback application is determined”).

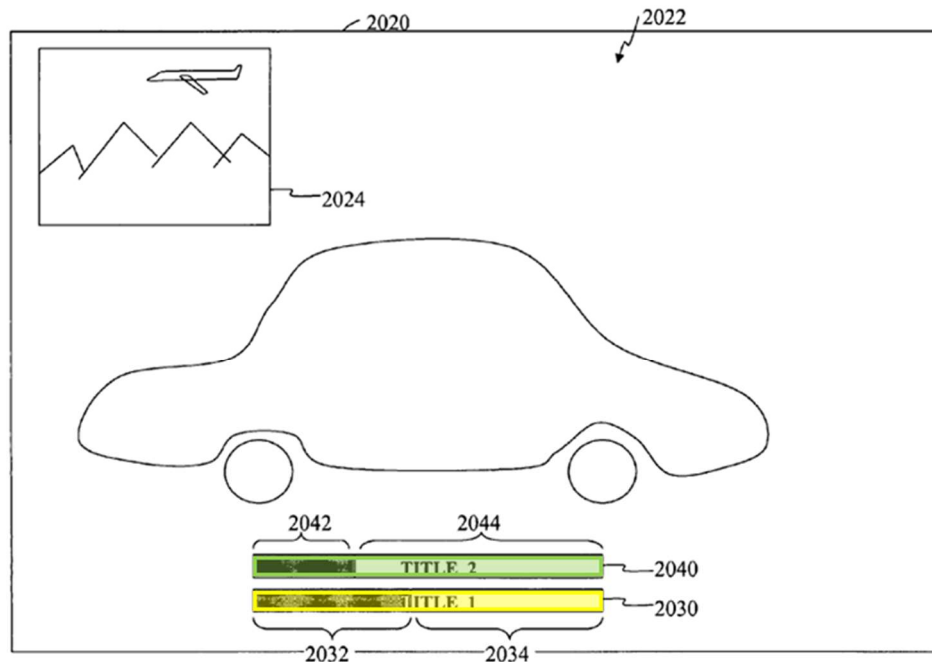


FIG. 20

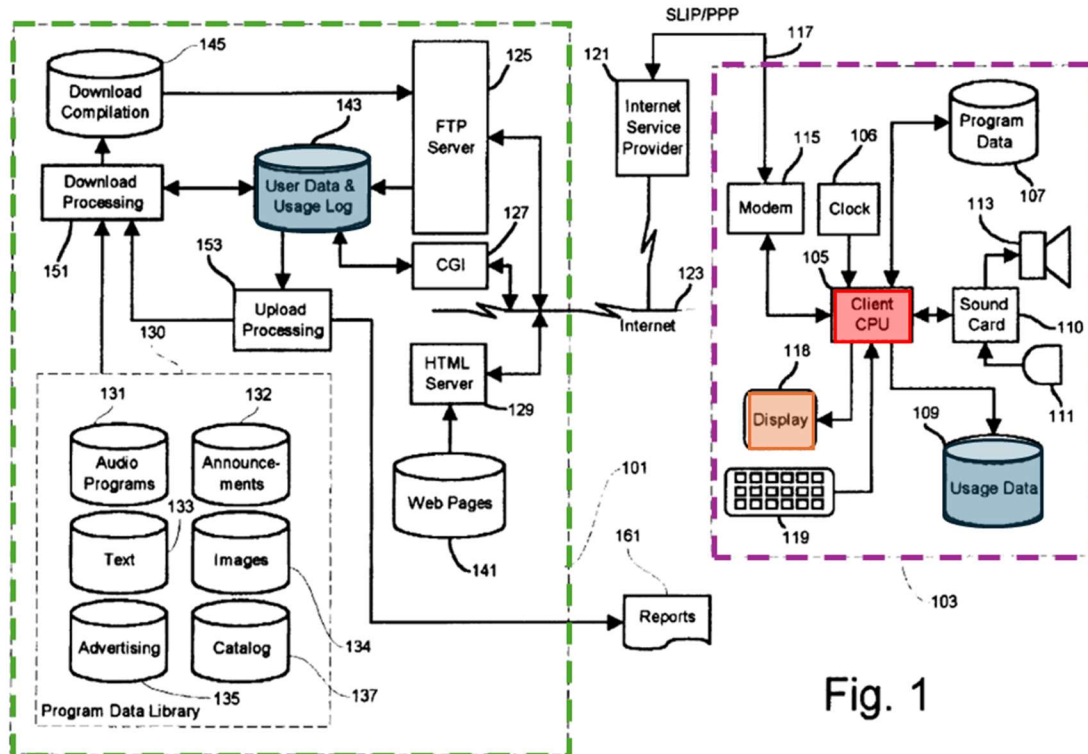
172. In the Logan-Poslinski combination, Logan’s suggestion to apply its teachings to programs (plural) would have been implemented in view of Poslinski’s express teaching to track the viewing progress of at least two different video programs. For example, Logan’s usage data 109 at player 103 and user data and usage log database indicated at 143 at server 101 (i.e., media profile) would explicitly include the user’s second viewing progress within a second serial program, as taught by Poslinski (e.g., first progress bar 2030 and second progress bar 2040). *See* Section VII.A.

g. Element 1[d][1]: generating for display, on a display screen, a first user-selectable link corresponding to the first progress point in the first serial program

173. In my opinion, Logan-Poslinski teaches Element 1[d][1].

174. Logan teaches generating for display on a display screen a first user-selectable link corresponding to the first progress point in the first serial program. Logan teaches that the “playback session begins with the presentation of an audio (and/or *displayed*) *menu* which allows the user to *jump to any program segment* within that sequence to start (or *resume*) *playback*.” Ex-1005, 11:16-20. For example, Logan teaches that “[i]n a player implemented by a personal computer provided with *a screen display, the current playback position* may be advantageously *indicated by displaying the program segment topic descriptions in a scrolling listing*, with the description of the program currently being displayed being *highlighted*.” Ex-1005, 11:43-48, Fig. 1 (orange). Moreover, “[t]he scheduled duration of each program segment may be displayed, along with *the elapsed time remaining to be played* in the currently playing segment, to enable the user to more easily determine when to skip the remainder of the currently playing segment.” Ex-1005, 11:48-52. Logan also teaches “respond[ing] to *the users selection of a given program on the scrollable listing* by means of *a mouse* or the like.” Ex-1005, 11:53-57; *see also id.*, 13:29-33 (“[A] mouse click on a screen-displayed menu of items, or a push-button on a hand controller connected by an infrared link to the player

computer, could similarly be processed as a command to go to a predetermined program segment associated with that command signal.”).



175. As explained in Section XI.A.2.g, the '324 Patent does not define the term “user-selectable link” but teaches that the patent’s display screens “use commonly-used application selection objects such as hyperlinks, buttons, lists, drop-down boxes, and checkboxes” for making selections. Ex-1001, 23:6-13. A POSITA would have understood that the scrolling listing of programs generated on the display screen that highlights the currently playing segment, displays the elapsed time remaining to be played for that segment (i.e., first progress in first serial program), and allows the user to select a program using a mouse corresponds to the recited

“first user-selectable link.” Indeed, Logan teaches that the record for a program segment includes a URL field that “specifies the location of the file containing the program segment in the file storage facility.” Ex-1005, 17:62-67. Furthermore, Logan teaches that the subscriber player selects files to download and play by specifying the URLs. Ex-1005, 26:26-31.

176. Logan further teaches that “the structured program files may advantageously contain, where appropriate, ‘hyperlink’ passages, which may take the form of announced cross references to other materials, or sentences or phrases which describe related information contained elsewhere in the download compilation but which do not follow immediately in the sequence.” Ex-1005, 30:20-26. For example, the normal programming sequence may identify “anchor” passages for the user using “an audible cue signal of some type,” which “are further associated with a reference to hyperlinked material to which the playback may jump upon the listener’s request.” Ex-1005, 30:32-38. Logan further teaches a “*special key*,” “which, when activated, *causes a ‘return’ to* be made to the playing sequence at *the point of the original anchor from which the hyperlink was performed.*” Ex-1005, 30:55-61. In this way, “*a hyperlink may be executed* from within a hyperlinked narrative, and so on, with the listener retaining the ability to execute a like sequence of returns *to resume the playing sequence at the point of the first hyperlink call.*” Ex-1005, 30:61-31:2. In this example, the “special key” generated on the display

screen and executed like a hyperlink, corresponds to the recited “first user-selectable link,” which returns the user to the first progress point in the first serial program.

177. As explained in the previous section, Poslinski teaches displaying a progress bar “showing the status of the main program 2022,” including “the amount of the main program already viewed 2032, and the amount of the main program remaining to be viewed 2034.” Ex-1007 ¶97, Fig. 20 (green). In the Logan-Poslinski combination, the first user-selectable link generated for display on Logan’s display screen would correspond to a first progress point in a first video program such as a TV show or a movie, as taught by Poslinski. Ex-1007 ¶2.

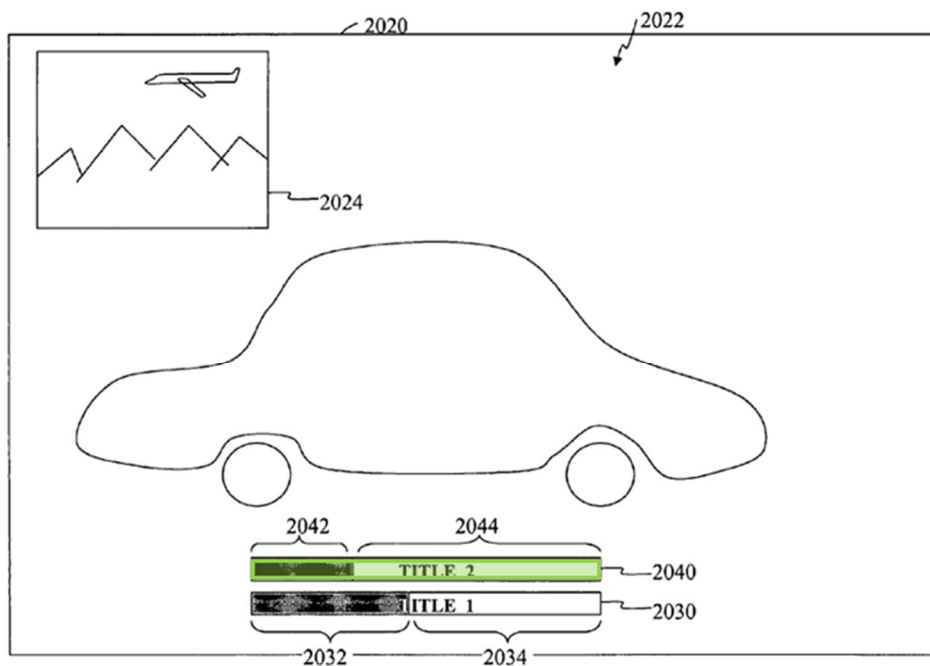


FIG. 20

178. As I also explained in the Technological Background section of my Declaration (*see* Section VII.C), generating for display on a display screen adjacent

user-selectable links corresponding to progress points in serial programs was a well-known concept by 2005. *See, e.g.*, Ex-1034 (Morris), Abstract, ¶¶42-43, Fig. 3; Ex-1025 (Williamson) ¶70; Ex-1022 (Segel) ¶20.

h. Element 1[d][2]: adjacent to a second user-selectable link corresponding to the second progress point in the second serial program,

179. In my opinion, Logan-Poslinski teaches Element 1[d][2].

180. Logan teaches generating for display on a display screen a second user-selectable link corresponding to the second progress point in the second serial program adjacent to the first user-selectable link for the reasons described in Sections XI.C.2.c, XI.C.2.f, and XI.C.2.g, namely, because it teaches tracking the progress of “programs” plural included in a session (which would include at least first and second serial programs), the ability to “return” to the progress point in a given program when interrupted by an “anchor” passage by the user’s selection of a “special key” (i.e., user-selectable link), and the user’s ability to select a program from a scrolling listing of programs using a mouse (i.e., another user-selectable link). A POSITA would have understood that in a scrolling listing of programs a first serial program and a second serial program are adjacent to each other in the listing, like in a conventional TV guide. A POSITA would have understood that grouping content in this manner makes it easier for a user to quickly recognize there are a number of

content items associated with a series and they would be presented in a specified sequence.

181. Additionally, Poslinski explicitly teaches tracking the viewing progress of a second video program in addition to the first, and displaying links to both programs adjacent to each other. Specifically, Poslinski teaches generating for display, on a display screen, an adjacent second user-selectable link corresponding to the second progress point in the second video program. Poslinski teaches that “a user initiates the display of the progress bar/bars through the remote and/or manual controls.” Ex-1007 ¶100. Specifically, the remote control includes “a progress bar button and/or a button with more than one function with one of those functions being the initiation of displaying one or more progress bars.” Ex-1007 ¶100. Poslinski further teaches that “[w]hen *multiple progress bars are displayed*, they are displayed *one above the other*.” Ex-1007 ¶100. For example, as shown in Figure 20 below, “the main program progress bar 2030 by default is highlighted as the focus application” (yellow) and “[t]he user simply shifts the highlighting to another progress bar to shift the focus to an alternate playback or record application” like the secondary program (green). Ex-1007 ¶107, Fig. 20. Poslinski also teaches that the user can view multiple progress bars at once by “pressing a select button on the remote control to select a progress bar, using up arrow key to shift to a second progress bar and again pressing the select button to highlight a second progress bar,

etc.” Ex-1007 ¶107. Poslinski’s second progress bar 2040 that displays the second progress point in the second serial program corresponds to the recited “adjacent” “second user-selectable link” because it is located directly above the progress bar for the main program 2030 and when the user selects progress bar 2040 using a key on the remote control, the progress for the second program is generated on the display.

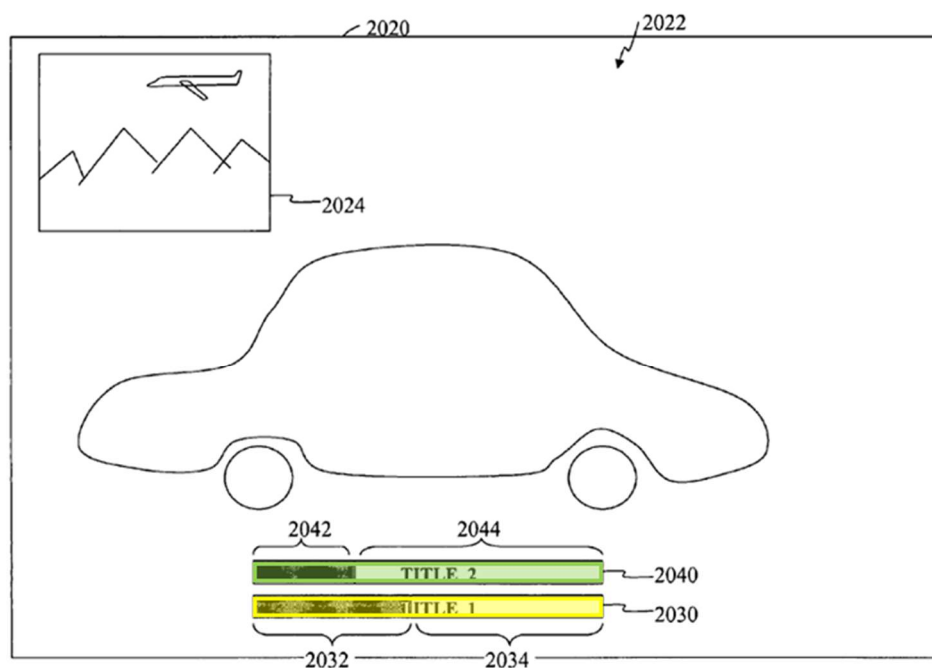


FIG. 20

182. In the Logan-Poslinski combination, Logan’s display screen would generate for display a second user-selectable link corresponding to the second progress point in the second serial video program adjacent to the first user-selectable link, as taught by Poslinski.

- i. **Element 1[d][3]: wherein selecting the first user-selectable link causes a first option for generating for display the first serial program at the first progress point to be displayed, and**

183. In my opinion, Logan-Poslinski teaches Element 1[d][3].

184. As explained in Section XI.C.2.g-XI.C.2.h, the Logan-Poslinski combination teaches displaying adjacent first and second user-selectable links on the display screen. Poslinski further teaches that selecting the first user-selectable link causes a first option for generating for display the first serial program at the first progress point to be displayed. Specifically, Poslinski teaches that the system “receives a command to display one or more progress bars (e.g., detects the selection of a progress bar button at the remote control).” Ex-1007 ¶113. The main program “is identified,” its playback status is determined, and “a first progress bar (e.g., progress bar 2030) is displayed for the first main program.” Ex-1007 ¶113. Poslinski further teaches that the process then “determines whether a command has been received” and, in particular, it is “determined whether the command is a selection command to initiate the selection and/or highlighting of one or more of the progress bars and thus focusing trick commands on associated playback and/or record applications.” Ex-1007 ¶¶117-118. “If a selection is received, the selection is implemented.” Ex-1007 ¶118. The process then continues to determine whether trick commands should be applied to the program (*see* Section XI.C.2.m). Ex-1007 ¶118.

185. As explained in Section XI.C.2.g, the first serial program generated for display in the Logan-Poslinski combination would include a video program such as a TV show or movie, as taught by Poslinski. In the Logan-Poslinski combination, Logan's display screen would generate for display a first user-selectable link corresponding to the first progress point in the first serial program and selecting the first user-selectable link would cause a first option for generating for display the first serial program at the first progress point to be displayed, as taught by Poslinski.

186. As I also explained in the Technological Background section of my Declaration (*see* Section VII.D), selecting the user-selectable links causes the serial programs to be generated for display at the progress points was a well-known concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶64; Ex-1021 (Sull) ¶167; Ex-1024 (Tecot'473), 7:41-8:1, 21:35-47; Ex-1026 (Ellis) ¶236.

j. Element 1[d][4]: wherein selecting the second user-selectable link causes a second option for generating for display the second serial program at the second progress point to be displayed;

187. In my opinion, Logan-Poslinski teaches Element 1[d][4].

188. Logan-Poslinski teaches Element 1[d][4] for the reasons described in the previous section and Section XI.C.2.h. Specifically, selecting either the main or secondary program progress bar in Poslinski's Figure 20 will cause the system to respond in the same way described in the previous section, namely displaying a second option for generating for display the second serial program at the second

progress point. Ex-1007 ¶118 (“If there is more than one bar displayed, step 2362 is entered where the process determines which of the plurality of bars are focused and/or selected.”). Additionally, Poslinski teaches that “[t]he *user can switch the focus to other playback (and/or record) applications* by shifting the focus/highlighting [] to other progress bars, for example, *by using up and/or down arrow keys to shift the focus between progress bars.*” Ex-1007 ¶106. For example, as shown in Figure 20 below, “the main program progress bar 2030 by default is highlighted as the focus application” (yellow) and “[t]he user simply shifts the highlighting to another progress bar to shift the focus to an alternate playback or record application” like the secondary program (green). Ex-1007 ¶107, Fig. 20. Poslinski teaches that the process then continues to determine whether trick commands should be applied to the program (*see* Section XI.C.2.m). Ex-1007 ¶118.

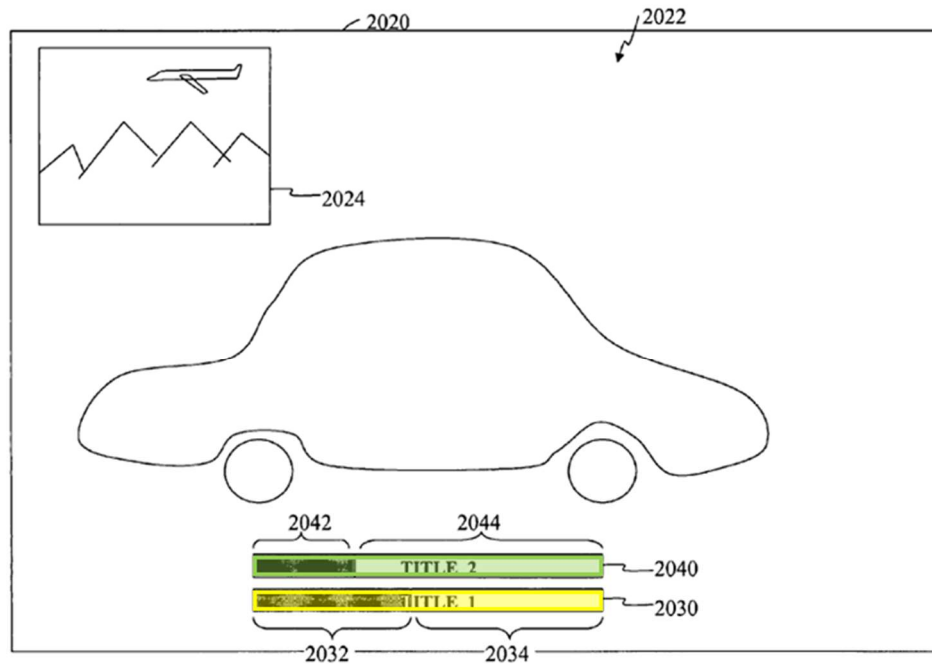


FIG. 20

189. In the Logan-Poslinski combination, Logan’s display screen would generate for display a second user-selectable link corresponding to the second progress point in the second serial program and selecting the second user-selectable link would cause a second option for generating for display the second serial program at the second progress point to be displayed, as taught by Poslinski.

k. Element 1[e][1]: receiving a user selection of the first link;

190. In my opinion, Logan-Poslinski teaches Element 1[e][1].

191. Logan teaches receiving a user selection of the first link. Logan teaches that the “playback session begins with the presentation of an audio (and/or displayed) menu which allows the user to *jump to any program segment* within that sequence to start (or resume) playback.” Ex-1005, 11:16-20. Logan also teaches

“respond[ing] to *the users selection of a given program on the scrollable listing by* means of *a mouse* or the like.” Ex-1005, 11:53-57; *see also id.*, 13:29-33. Logan further teaches a “*special key*,” “which, *when activated, causes a ‘return’* to be made to the playing sequence at the point of the original anchor from which the hyperlink was performed.” Ex-1005, 30:55-61.

192. Poslinski also teaches this for the reasons described in Sections XI.C.2.i-XI.C.2.j. Ex-1007 ¶¶113, 117-118.

I. Element 1[e][2]: in response to receiving the user selection of the first link, generating for display the first option;

193. In my opinion, Logan-Poslinski teaches Element 1[e][2].

194. Poslinski teaches in response to receiving the user selection of the first link, generating for display the first option for the reasons described in Section XI.C.2.i. Specifically, Poslinski teaches that the system “receives a command to display one or more progress bars (e.g., detects the selection of a progress bar button at the remote control).” Ex-1007 ¶113. The main program “is identified,” its playback status is determined, and “a first progress bar (e.g., progress bar 2030) is displayed for the first main program.” Ex-1007 ¶113. The process then “determines whether a command has been received” and, in particular, it is “determined whether the command is a selection command to initiate the selection and/or highlighting of one or more of the progress bars and thus focusing trick commands on associated

playback and/or record applications.” Ex-1007 ¶¶117-118. “If a selection is received, the selection is implemented.” Ex-1007 ¶118.

m. Element 1[e][3]: receiving a user selection of the first option; and

195. In my opinion, Logan-Poslinski teaches Element 1[e][3].

196. Poslinski teaches that following the selection step described in the previous section, the process determines “if the command received was a trick command” and “applies the requested trick commands to each playback and/or record application selected and/or highlighted.” Ex-1007 ¶118; *see also id.*, ¶106 (“while the main program progress bar 2030 is highlighted 2150, trick commands received are applied to the main program 2022”). Trick commands “are utilized to control one or more active playback and/or record applications” and include commands such as “pause, replay/rewind, fast-forward.” Ex-1007 ¶105.

n. Element 1[f]: in response to receiving the user selection of the first option, generating for display the first serial program at the first progress point.

197. In my opinion, Logan-Poslinski teaches Element 1[f].

198. Logan teaches in response to receiving the user selection, generating for display the first serial program at the first progress point for the reasons described in Section XI.C.2.k. The “playback session begins with the presentation of an audio (and/or displayed) menu which allows the user to *jump to any program segment* within that sequence to start (or *resume*) *playback*.” Ex-1005, 11:16-20. Logan also

teaches “respond[ing] to *the users selection of a given program on the scrollable listing by* means of *a mouse* or the like.” Ex-1005, 11:53-57; *see also id.*, 13:29-33. Logan further teaches a “*special key*,” “which, when activated, *causes a ‘return’* to be made to the playing sequence at *the point of the original anchor from which the hyperlink was performed.*” Ex-1005, 30:55-61. As explained in Sections XI.C.2.i-XI.C.2.j and XI.C.2.k-XI.C.2.m, Poslinski teaches an additional “first option” display and selection step before the first serial program is generated for display from the first progress point where the system determines if trick commands should be applied to the selected program. In the Logan-Poslinski combination, selecting Logan’s first user-selectable link would cause a first option to be generated for display, as taught by Poslinski, and in response to receiving the user selection of the first option, Logan’s first serial program would be generated for display at the first progress point.

199. Moreover, as explained in Section XI.C.2.g, the first serial program generated for display in the Logan-Poslinski combination would include a video program such as a TV show or movie, as taught by Poslinski.

200. Thus, Logan-Poslinski renders obvious Claim 1.

3. Dependent Claims 2-5

- a. **Claim 2: The method of claim 1, wherein the first link and the second link are associated with a first cell and a second cell, respectively.**

201. In my opinion, Logan-Poslinski teaches Claim 2.

202. Logan does not explicitly teach the manner in which the first user-selectable link and second-user selectable link are displayed to the user but it would have been obvious that the links would be associated with a first cell and a second cell, respectively, because this is the way that channel/program selections are typically formatted and displayed to the user, for example, on a TV programming guide. This is also taught by Poslinski.

203. As shown in Figure 20 below, Poslinski teaches that “[w]hen multiple progress bars are displayed,” i.e., the first and second user-selectable links, “they are displayed one above the other.” Ex-1007 ¶100, Fig. 20. Poslinski further teaches that “[t]he user can switch the focus to other playback (and/or record) applications by shifting the focus/highlighting [] to other progress bars, for example, by using up and/or down arrow keys to shift the focus between progress bars.” Ex-1007 ¶106.

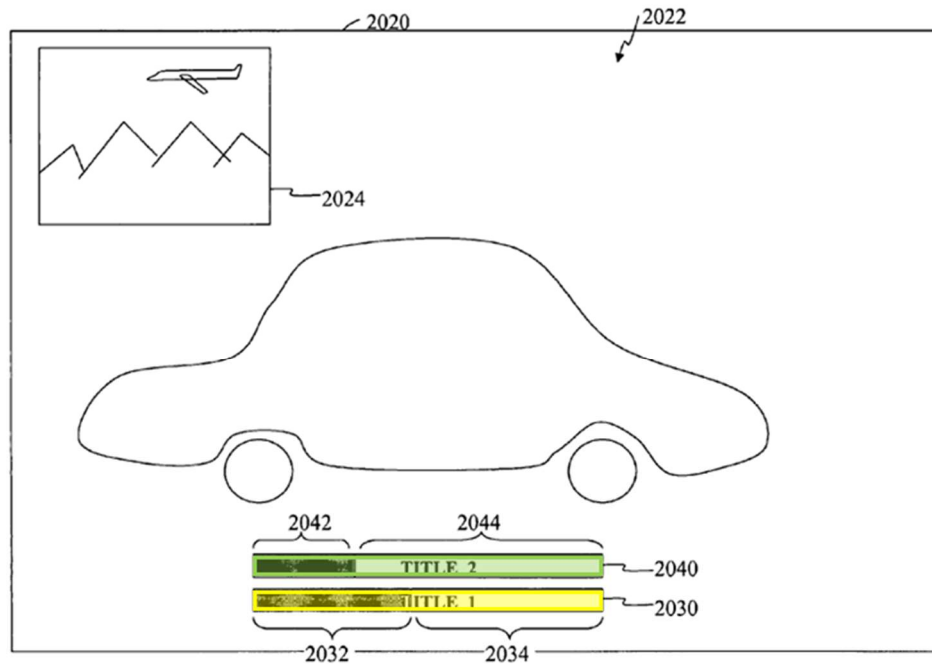


FIG. 20

204. As explained in Section XI.A.3.a, the '324 Patent does not define the term “cell” but a POSITA would have understood that Poslinski’s progress bars 2030 and 2040, which may be selected by the user to generate on the display the viewing progress for the first and second serial program, respectively, correspond to the recited “first cell” and “second cell” because they are designated buttons on different regions of the display that when activated by the user using the remote control perform a corresponding function. In addition to the reasons described in Section XI.C.1, a POSITA would have been motivated to associate Logan’s first and second links with first and second cells, as taught by Poslinski, because this was a typical GUI design implementation to facilitate user interaction and perform corresponding functions accurately. A POSITA would have expected selecting a different button

that is labeled with distinct titles to perform a corresponding function by selecting one title versus the other title.

205. As I also explained in the Technological Background section of my Declaration (*see* Section VII.E), associating the links with a plurality of cells was a well-known concept by 2005. *See, e.g.*, Ex-1023 (Klarfeld) ¶3321; Ex-1035 (Moir) ¶17.

b. Claim 3: The method of claim 2, wherein the first cell and the second cell are included in a plurality of cells, wherein the plurality of cells are arranged in rows and columns.

206. In my opinion, Logan-Poslinski teaches Claim 3.

207. Logan does not explicitly teach the manner in which the links are displayed to the user but it would have been obvious that the links would be associated with a first cell and a second cell, respectively, that could be arranged in rows and columns. This is also taught by Poslinski.

208. As described in the previous section, Poslinski teaches that “[w]hen multiple progress bars are displayed, they are displayed *one above the other*.” Ex-1007 ¶100, Fig. 20. Poslinski also teaches that “[i]n other implementations the bars can be divided horizontally along the screen; displayed proximate the PIPs 2024; *and other such placements*.” Ex-1007 ¶100. A POSITA would thus have understood that the progress bars would be arranged in rows and columns because this is the way that channel/program selections are typically formatted and displayed to the

user, for example, on a TV programming guide, as explained below. Such a grid is familiar to a user with a channel represented by a row, and a column representing the same block of time across all channels.

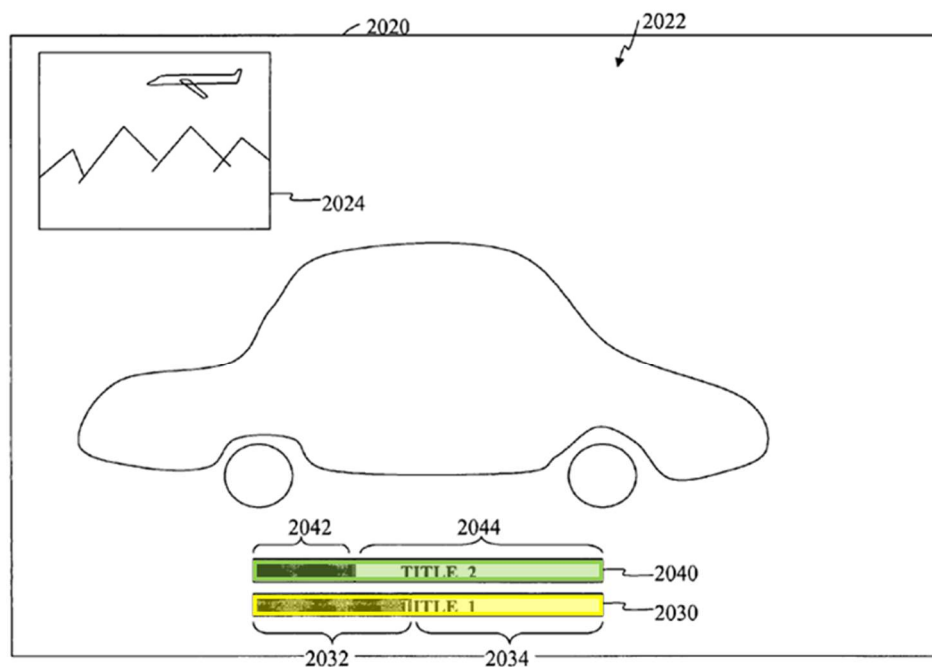


FIG. 20

209. Poslinski further teaches, as shown in Figure 19 below, that the progress bars may be associated with the programming guide and displayed concurrently with the guide. Poslinski teaches that “the programming guide includes *one or more status or progress bars* that define the state of programs currently being accessed by the STB for viewing, recording and/or playback.” Ex-1007 ¶95. For example, “[t]he programming guide 1920 includes listings of channels 720 and the titles of programs 722 that can be accessed on the prescribed channels at the specified time 724” as well as “*progress bar 1922 ... that identifies the channel 1930 that is currently*

being viewed, the time elapsed 1932 in the program and the time remaining 1934 for the program.” Ex-1007 ¶95. Poslinski also teaches that “the program guide is traversed by the user (for example *user scrolls up or down to display additional channels, or scrolls right or left to display other times (and thus other programs)*).” Ex-1007 ¶60. The programming guide comprises a plurality of cells that are arranged in rows and columns. For example, the rows correspond to channel numbers for the programs and the columns correspond to the time of the programs. When the user selects a channel on the guide, the corresponding progress bar for the channel is displayed. Thus, the first and second cells (i.e., progress bars) are included in a plurality of cells that are arranged in rows and column.

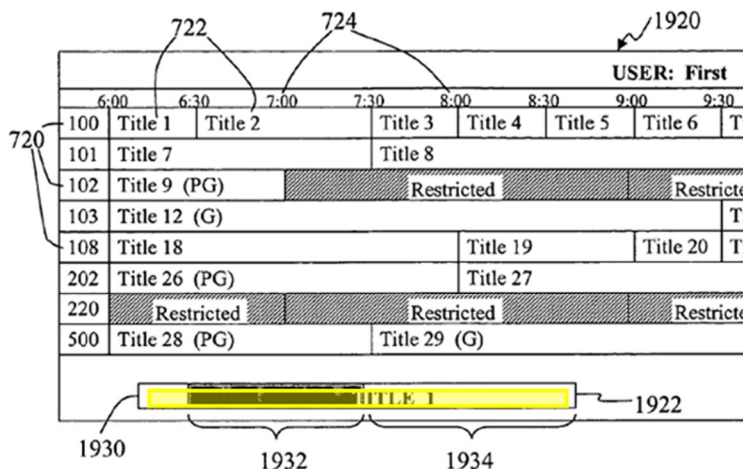


FIG. 19

210. In addition to the reasons described in the previous section, a POSITA would have been motivated to arrange Logan’s links into cells in this manner, as taught by Poslinski, because like a traditional TV guide it would allow the user to

view multiple program options at once on the display and easily navigate using up/down and left/right controls to select a program for viewing. Such a grid is familiar to a user so that the user can navigate between channels readily using up/down controls as well as navigating forwards and backwards in time using left/right controls.

211. As I also explained in the Technological Background section of my Declaration (*see* Section VII.E), arranging the links in rows and columns was a well-known concept by 2005. *See, e.g.*, Ex-1023 (Klarfeld) ¶3321; Ex-1035 (Moir) ¶17.

c. Claim 4: The method of claim 1, further comprising automatically presenting an unwatched episode in the first serial program in response to a user selecting the first link.

212. In my opinion, Logan-Poslinski teaches Claim 4.

213. Logan teaches automatically presenting an unwatched episode in the first serial program in response to a user selecting the first link if the user completed the previous episode in the series. Logan teaches that its “programming may include serialized sequences of programs” such that “[a] given program segment may represent an episode in a series which is selected as a group by the subscriber, or a subscriber may select an individual program in a serial sequence and the host may then further installments or related programs within the series to the catalog or session content thereafter sent to the subscriber.” Ex-1005, 18:43-50. Logan further teaches that “[w]hen a subscriber selects and plays a given program segment, as

indicated in the usage log, *without having expressly selecting the entire series, the host may then add the next installment to the catalog or the next proposed session.*” Ex-1005, 18:58-62. Moreover, “[i]f desired, a hyperlink (to be described) may be placed at the conclusion of each installment which specifies the next installment as the linked program segment” so that “*the listener may request that the next installment be played immediately (if it is available)* or included in the next installment (if it is unavailable and the hyperlink fails).” Ex-1005, 18:62-67; *see also id.*, 39:6-15 (“The invention further supports the construction of serialized groups of program segments in which the sequential episode segments may be downloaded at one time or separately Using hyperlinks, *the listener may be given the option to continue listening at the next episode of the serial sequence.*”).

214. As I also explained in the Technological Background section of my Declaration (*see* Section VII.F), automatically presenting an unwatched episode in the serial program in response to a user’s selection of a link was a well-known concept by 2005. *See, e.g.*, Ex-1033 (Kesteloot) ¶¶61-62; Ex-1026 (Ellis), Fig. 11; Ex-1038 (Stark) ¶¶20, 55; Ex-1028 (Ellis-2) ¶¶73, 145, Fig. 14e; Ex-1037 (Ellis-3) ¶¶173, 199; Ex-1030 (Ellis-4) ¶¶110-111, 118.

d. Claim 5: The method of claim 1, further comprising presenting a summary region associated with the first serial program.

215. In my opinion, Logan-Poslinski teaches Claim 5.

216. Logan teaches presenting a summary region associated with the first serial program. Logan teaches that “[e]ach *program segment begins with* a ‘topic’ announcement which consists of *a brief, summary description of the content of the program segment* to follow.” Ex-1005, 29:5-7; *see also id.*, 30:38-42 (“Hyperlinked material, like all other programming, is advantageously preceded with a topic description and, if the hyperlinked material is a narrative, it should begin with a summary paragraph, followed by increasing detail.”).

D. Ground 4: Claim 6 is obvious over Logan-Poslinski in view of McElhatten.

1. Dependent Claim 6: The method of claim 1, wherein the summary region indicates a predefined viewing order for the first serial program.

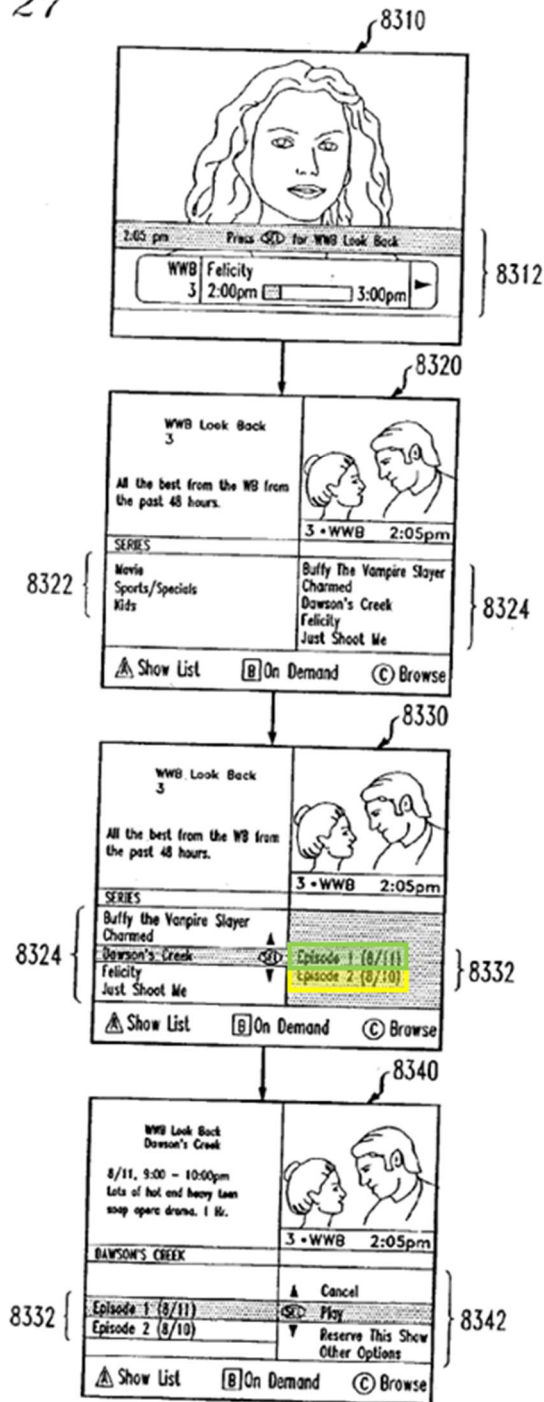
217. In my opinion, Logan-Poslinski in view of McElhatten (“Logan-Poslinski-McElhatten”) teaches Claim 6.

218. Logan teaches that the summary region indicates a predefined viewing order for the first serial program because in addition to teaching that each program segment begins with a summary description (as described in Section XI.C.3.d), Logan teaches that “[t]he *playback operation* itself continues from the designated playback point in the selections file ... which *follows a program sequence initially created by the host server* and downloaded with the program segments themselves.” Ex-1005, 11:21-25. Moreover, Logan teaches that the player automatically advances to the next summary description with an increasing level of detail. Specifically,

Logan teaches that “[e]ach program segment begins with a ‘topic’ announcement which consists of a brief, summary description of the content of the program segment to follow” and “if the user upon hearing the topic announcement elects to skip that program segment, *the player automatically advances to the entry point preceding the next topic announcement*” so that “the user can skip from topic to topic to select only the program segments of interest.” Ex-1005, 29:5-13; *see also id.*, 30:38-42. As also explained in Section XI.C.3.c, Logan’s teachings apply to “serialized sequences of programs.” Ex-1005, 18:58-62. Thus, a POSITA would have understood that Logan’s summary descriptions constructed in advance, when applied to a series, indicates a predefined viewing order for the first serial program by listing the unwatched episodes in order in which they were originally presented.

219. To the extent PO argues that the predefined order must include an episode number, this is taught by McElhatten for the reasons described in Section XI.B. Ex-1010, Fig. 27, ¶¶164-165.

FIG. 27



220. In the Logan-Poslinski-McElhatten combination, Logan's summary descriptions would indicate a predefined viewing order for the first serial program

by providing an episode number, as taught by McElhatten. A POSITA would have been motivated to implement these features in Logan's system for the same reasons described in Section XI.B, namely, because they would allow the user to avoid spoilers for content the user has not yet viewed and watch the series in order, and allow the user to quickly understand how far into this season this episode is positioned. Indeed, Poslinski already teaches that its programming guide provides a summary including "substantially any information associate[d] with the selected program that is supplied by the broadcaster/distributor." Ex-1007 ¶56; *see also id.*, ¶71. A POSITA would have understood that an episode number is information associated with a selected program that would have been supplied by the broadcaster and would have found it obvious to include with Logan's summary, as taught by McElhatten.

221. A POSITA would have been motivated to combine the teachings of Logan-Poslinski and McElhatten and had a reasonable expectation of success in doing so because all three relate to methods for presenting multimedia content, which include enabling a user to resume viewing such content from an interrupted position using similar hardware and software components. Ex-1005, Title, 30:55-31:2, Fig. 1; Ex-1007, Abstract, Fig. 2; Ex-1010 ¶¶77-78. Moreover, all three provide similar interactive services to the users including the ability to access stored programs, DVR/VOD programs, and/or broadcast media programs. *See, e.g.*, Ex-

1005, 4:46-52, 37:65-38:10; Ex-1007 ¶34; Ex-1010, Abstract, ¶84. A POSITA would thus have understood that these references disclose interrelated teachings based on well-understood technologies that would have been amenable to various well-understood and predictable combinations.

222. As I also explained in the Technological Background section of my Declaration (*see* Section VII.G), presenting a summary region associated with the serial program, which indicates a predefined viewing order was a well-known concept by 2005. *See, e.g.*, Ex-1036 (Orr) ¶¶7, 23; Ex-1027 (Cassin) ¶150, Fig. 7a; Ex-1029 (Simms) ¶29; Ex-1026 (Ellis), Fig. 11.

XII. CONCLUSION

223. For the reasons above, it is my opinion that Claims 1-6 of the '324 Patent are obvious based on each of the grounds specified in my Declaration.

224. I declare that all statements made in my Declaration of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: October 24, 2025

A handwritten signature in black ink that reads "Henry H. Houh". The signature is written in a cursive, slightly slanted style.

Dr. Henry Houh