

Petition for *Inter Partes* Review of
U.S. Patent No. 12,118,591 B1

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner

v.

WEPLE IP HOLDINGS LLC,
Patent Owner.

Case IPR2025-00080
U.S. Patent No. 12,118,591 B1
Issue Date: October 15, 2024

Title: MOBILE DEVICE STREAMING MEDIA APPLICATION

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 12,118,591 B1**

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List of Exhibits

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1001	U.S. Patent No. 12,118,591 B1 to Mary Anne Fletcher (filed June 11, 2024, issued October 15, 2024) (“ 591 ” or “ 591 patent ”)
1002	Declaration of Mark Crovella, Ph.D. (“ Crovella ”)
1003	U.S. Patent Application Publication No. 2009/0271283 A1 to Fred M. Fosnacht et al. (filed February 13, 2009, published October 29, 2009) (“ Fosnacht ”)
1004	U.S. Patent No. 8,826,145 B1 to Ficus Kirkpatrick et al. (filed November 11, 2008, issued September 2, 2014) (“ Kirkpatrick ”)
1005	U.S. Patent Application Pub. No. 2007/0156520 A1 to Jayesh Sharma (filed December 30, 2005, published July 5, 2007) (“ Sharma ”)
1006	Excerpts from <i>Microsoft Computer Dictionary</i> (5th ed. 2002)
1007	Excerpts from Erin Jansen, <i>NetLingo: The Internet Dictionary</i> (2002)
1008	Excerpts from Adi Rome et al., <i>Multimedia on Symbian OS: Inside the Convergence Device</i> (2008) (“ Rome ”)
1009	Excerpts from David Fox et al., <i>HTML Web Publisher’s Construction Kit</i> (1995) (“ Fox ”)
1010	Anthony Bruno, <i>A Bigger Hand? Apple’s iPad Offers Larger Mobile Platform for Music and Media</i> , <i>Billboard Magazine</i> , Feb. 6, 2010
1011	U.S. Patent No. 8,218,073 to Bill Cheng et al. (filed January 28, 2008, issued July 10, 2012)
1012	U.S. Patent No. 9,767,461 B2 to Maurice Lee Clancy, Jr. (filed September 12, 2007, issued September 19, 2017) (“ Clancy ”)
1013	First Amended Complaint for Patent Infringement, <i>Weple IP Holdings LLC v. Meta Platforms, Inc.</i> , Case No. 2:24-cv-01316-JLR (W.D. Wash. filed October 31, 2024)
1014	Complaint for Patent Infringement, <i>Weple IP Holdings LLC v. Meta Platforms, Inc.</i> , Case No. 2:24-cv-01316-JLR (W.D. Wash. filed August 22, 2024)

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List of Exhibits

Exhibit No.	Description of Document
1015	'591 Patent File Wrapper

I. MANDATORY NOTICES UNDER § 42.8(A)(1)

A. Real Party-In-Interest (§ 42.8(b)(1))

Meta Platforms, Inc. is the real party-in-interest to this IPR petition.

B. Related Matters (§ 42.8(b)(2))

The '591 patent is the subject of pending litigation involving Petitioner: *Weple IP Holdings LLC v. Meta Platforms, Inc.*, Case No. 2:24-cv-01316-JLR (W.D. Wash.). The original Complaint in that action was filed on August 22, 2024, but it did not assert the challenged patent against Petitioner. (EX1013.) Petitioner was first served with a Complaint alleging infringement of the challenged patent on October 31, 2024, when Patent Owner filed an Amended Complaint in the action which added allegations of infringement of the '591 patent. (EX1014.) The present Petition is therefore timely under 35 U.S.C. § 315(b).

No trial date has been established in the pending litigation, and the district court has not issued any rulings on claim construction. On June 30, 2025, Petitioner filed a motion in the pending litigation, seeking an order that the challenged patent is invalid for failure to claim of patent-eligible subject matter under 35 U.S.C. § 101. As of the filing of this Petition, however, the district court presiding over the pending litigation has not issued a ruling on that motion.

Petitioner is filing IPR petitions challenging three of the patents asserted in the pending litigation mentioned above:

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IPR Case No.	Patent No.
IPR2026-00079	U.S. Patent No. 12,112,357 B2 (“2357”)
IPR2026-00080	U.S. Patent No. 12,118,591 B1 (“591”)
IPR2026-00081	U.S. Patent No. 12,131,357 B2 (“1357”)

In addition, a Request for *Ex Parte* Reexamination was filed by third party Unified Patents, LLC (Control No. 90/019,850), which involves U.S. Patent No. 11,734,730 B2, which issued from an application in the same chain of continuation applications as the challenged patent. Petitioner had no involvement with the preparation or filing of that reexamination. On September 25, 2025, the Examiner issued a Final Rejection against all challenged claims as obvious.

C. Lead and Back-Up Counsel (§ 42.8(b)(3))

Petitioner provides the following designation of counsel.

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D. Service Information (§ 42.8(b)(4))

This Petition is being served by Federal Express to the attorney of record for the '591 patent, Avantech Law, LLP, 80 S 8th St, Suite 900, Minneapolis, MN 55402. Petitioner consents to electronic service at the addresses provided above for lead and back-up counsel.

II. FEE PAYMENT

Petitioner requests review of 30 claims, with a \$65,975 payment.

III. REQUIREMENTS UNDER §§ 42.104 AND 42.108 AND CONSIDERATIONS UNDER §§ 314(A) AND 325(D)

A. Grounds for Standing

Petitioner certifies that the '591 patent is available for IPR and that Petitioner is not barred or otherwise estopped.

B. Identification of Challenge and Statement of Precise Relief Requested

Petitioner requests IPR institution based on:

Ground	Claims	Basis for Challenge under §103
1	1-30	Fosnacht (EX1003) in view of Kirkpatrick (EX1004)

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Ground	Claims	Basis for Challenge under §103
2	2, 3, 12, 13, 22, 23	Fosnacht and Kirkpatrick, in further view of Sharma (EX1005)
3	9, 19, 29	Fosnacht and Kirkpatrick, in further view of Clancy (EX1012)

Submitted with this Petition is the Declaration of Mark Crovella, Ph.D., a qualified technical expert. (EX1002 (“Crovella”), ¶¶1-7, App’x A.)

C. Discretionary Denial Under §§ 314(a) and 325(d)

The ’591 patent is a new patent that issued recently (October 2024), and has not been the subject of any prior IPR petitions or any rulings on validity or patentability by any court. None of the prior art references relied on in the grounds listed above were identified during prosecution of the ’591 patent. The pending litigation against Petitioner is in a relatively early stage; no trial date has been set and the Court has not issued any claim construction rulings.

Additionally, if IPR is instituted (and institution is not subsequently vacated, or a Final Written Decision in the IPR is not subsequently vacated or terminated), Petitioner will not pursue in district court any grounds of invalidity against the challenged claims that were, or reasonably could have been, asserted in IPR under §§ 102 or 103 on the basis of prior art patent or printed publications. Petitioner will further address discretionary denial considerations if Patent Owner seeks discretionary denial.

IV. OVERVIEW OF THE PATENT

A. Person of Ordinary Skill in the Art

A person of ordinary skill in the art would have possessed a bachelor's degree in electrical engineering, computer science, or similar field, with two years combined experience in designing and implementing applications for mobile devices, as well as server-based systems for interacting with those mobile devices over a computer network such as the Internet. (EX1002, ¶12.) A person could also have qualified as a person of ordinary skill in the art with some combination of more formal education and less technical experience, or less formal education and more technical or professional experience. (*Id.*)

B. Specification Overview

The '591 patent describes “a system and process for coordinating a programmed media stream.” ('591, 2:31-33.) The content for a media stream can “relate[] to consciousness messages such as prayers, requests for charity, thoughts or similar messages” as well as “breaking news, music videos, comedy or similar content.” ('591, 2:33-37.) “A user can view these feeds or streams of these streams by downloading a mobile application or browsing to a website.” ('591, 2:40-42.) “The application or website can also be used to create, schedule and pay for media content airtime for a message or program.” ('591, 2:42-44.) The system is illustrated in Figure 1 reproduced below:

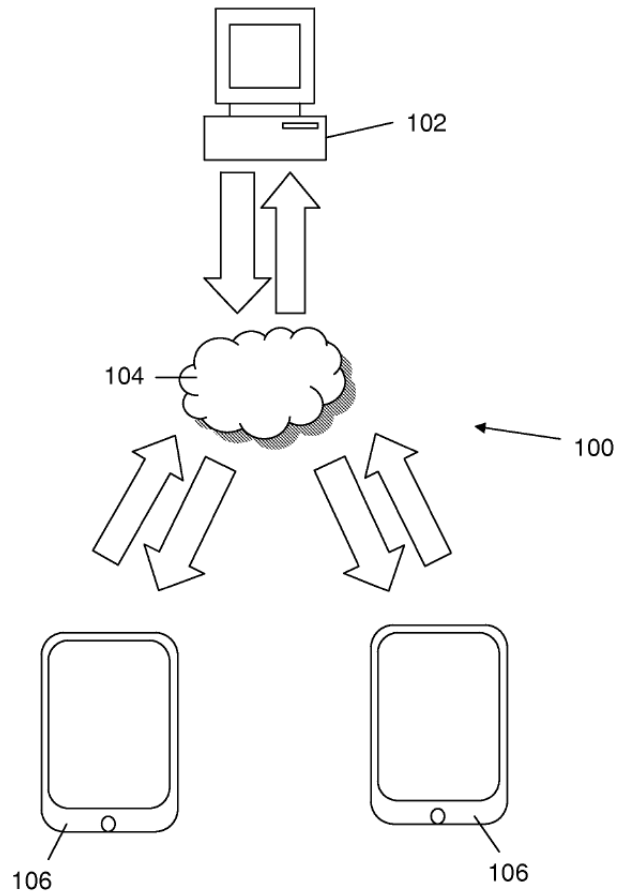


Figure 1

(’591, Fig. 1.) Figure 1 shows media coordination system **100** that includes network connected devices, such as mobile devices **106**, such as cell phones, portable music players, tables, laptop computers, etc. (’591, 3:55-61.) The system **100** includes a “computer server **102** (e.g., a processor, RAM, a hard drive, an operating system, web serving software and database software)” with which “mobile devices **106**” can communicate via “a wide area network **104** such as the internet or wireless cell phone data network.” (’591, 3:61-65.) The basic operation of the system is shown in Figure 10:

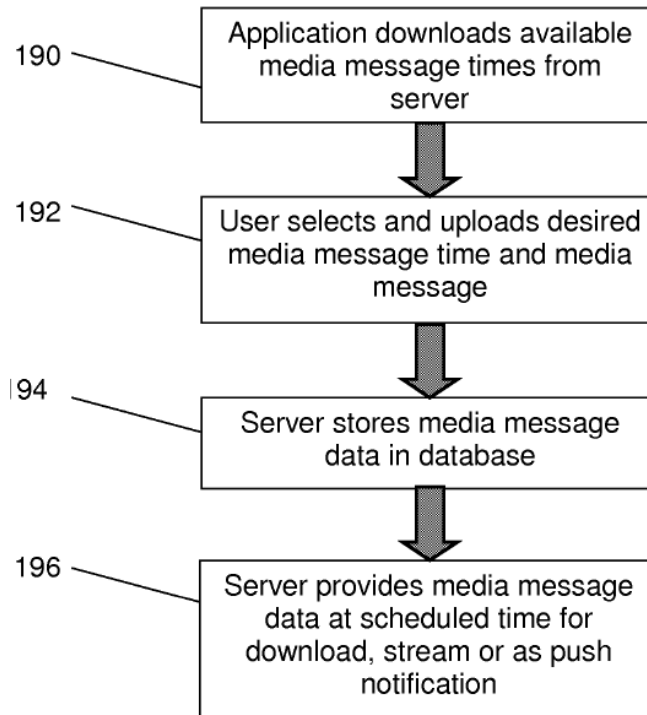


Figure 10

(’591, Fig. 10.) Figure 1 “illustrates a process of coordinating media content times according to an embodiment of the present invention.” (’591, 3:3-5.) The process includes selecting and uploading a desired media message and associated media message time (**190, 192**), storing the media message at a server in a database (**194**), and then providing the media message at the scheduled time (**196**), for example, by making the message data “available for download to each mobile device **106** running the application.” (See ’591, 4:48-65.) Figure 2 shows one embodiment of a user interface for presenting a media message:

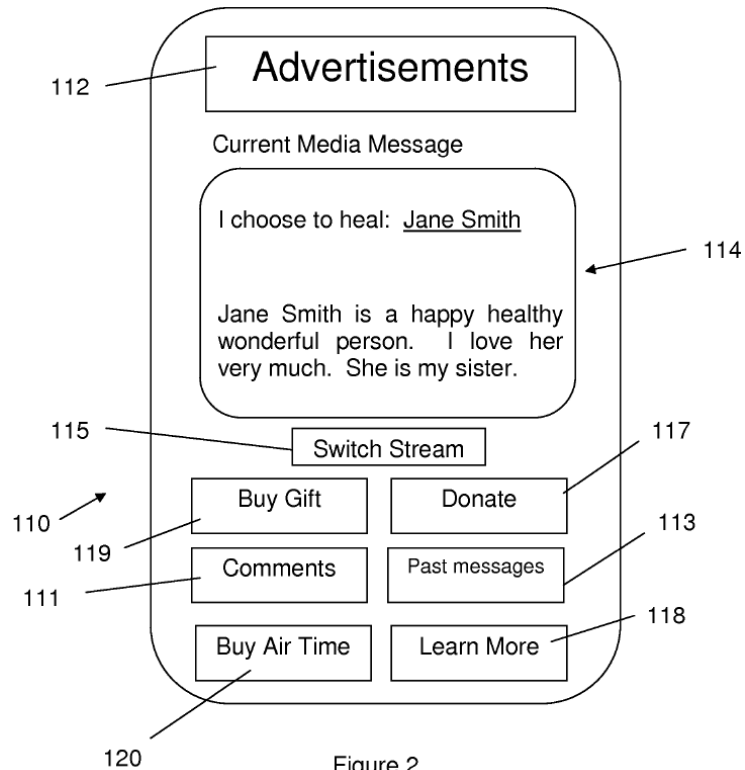


Figure 2

(’591, Fig. 2; 2:55-56.) Figure 2 shows current media message interface **110**, which “displays the media message currently scheduled by the server **102**.” (’591, 5:8-11.) As shown, the interface also “includes a comments button **111** that displays a comment interface for leaving messages related to the current media message.” (’591, 5:28-30.) And “selecting the switch stream button **115** allows the user to switch between” “multiple feeds or streams are available to the mobile application” such as “specific breaking news, religion, music, or pets.” (’591, 5:33-37.)

V. CLAIM CONSTRUCTION

Petitioner does not believe express claim construction is necessary at this time. The parties in the pending litigation have not exchanged positions with respect to claim construction, so Petitioner does not know what positions, if any, Patent

Owner may take with respect to construction of the challenged claims. For the claim term “**mobile application**,” the analysis below notes the possibility that Patent Owner could attempt to argue for a broad or narrow interpretation of this term, but the analysis below accounts for both possibilities thus making explicit construction unnecessary. The prior art cited herein, as demonstrated below, renders the challenged claims obvious under their plain and ordinary meaning. Petitioner reserves its right to respond in the event Patent Owner later makes claim construction arguments material to how the prior art applies to the challenged claims.

VI. THE CHALLENGED CLAIMS ARE UNPATENTABLE

A. Overview of Grounds

The challenged claims do not claim any technological advance—they attempt to lay claim over technologies that were already in the hands of millions of consumers. Long before the alleged priority date, the core features described in the challenged claims including mobile devices, mobile applications (including web browsers for mobile devices), and the ability to share media messages through Internet-based platforms, were widely available to the public.

All grounds rely on Fosnacht (**EX1003**), which discloses a web-based platform similar to the popular YouTube video sharing service in which users can share media items (such as videos) with other users through mobile computing devices. Fosnacht is a strong reference that discloses and renders obvious each

limitation of each challenged claim. All grounds also cite Kirkpatrick (**EX1004**), in the event of a narrow construction of “**mobile application**” limited to a native (non-browser) mobile application. (EX1002, ¶¶48-49, 100-101.) Kirkpatrick is a Google-owned patent that discloses a technique for presenting web-based content (such as YouTube content) through a native mobile application. (Kirkpatrick, 6:21-35, EX1002, ¶¶110, 112, 49.) Ground 2 cites to Sharma (**EX1005**) for advertising-related limitations in certain challenged dependent claims. Ground 3 cites to Clancy (**EX1012**) for the claimed ability to purchase scheduled airtime as recited in certain other dependent claims.

B. Prior Art Status of Relied-Upon References

Pre-AIA law applies to the challenged claims, and each reference cited in the grounds listed in **Part III.B** qualifies as prior art to the '591 patent. Fosnacht, Kirkpatrick, Sharma and Clancy all qualify as prior art under at least § 102(e) (pre-AIA) because they are patents or published patent applications whose applications were filed before the priority date of the '591 patent.¹

¹ The '591 patent claims priority to a provisional application (No. 61/304,331) filed February 12, 2010. Petitioner at this time expresses no opinion on whether the challenged claims are entitled to the benefit of the provisional filing date, as all of the prior art references relied upon here predate even that date. In the event

C. Ground 1: Claims 1-30 Are Obvious Over Fosnacht in View of Kirkpatrick

1. Independent Claim 1

The preamble recites “[a] method, comprising....” The prior art discloses and renders obvious a method of distributing media messages as described below.

- (a) **“receiving, at one or more servers, a plurality of media messages from one or more applications executable on a corresponding one or more computing devices, wherein respective ones of the plurality of media messages are associated with expiration information to determine when the media message is no longer available for presentation;” (1[a])**

Fosnacht discloses a media distribution system in which a server receives media messages from mobile applications executable on one or more mobile devices. Figure 1 shows key components of media distribution system **100**:

entitlement to the provisional filing date or another earlier priority date may later become relevant, Petitioner reserves the right to respond at that time.

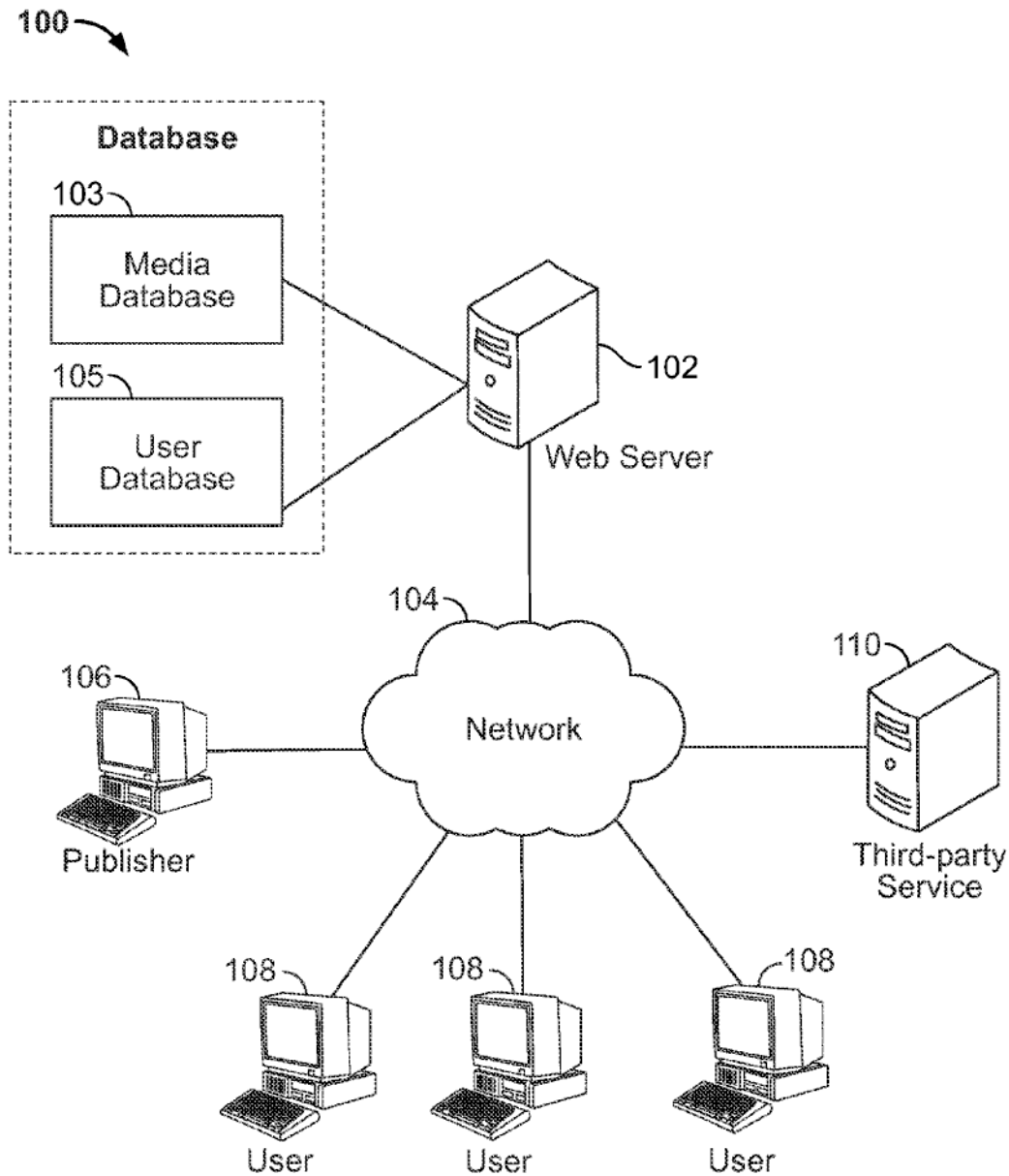


FIG. 1

(Fosnacht, Fig. 1.) “FIG. 1 is a block diagram of an exemplary media distribution system **100**. Media distribution system **100** includes web server **102**, network **104**, publisher computing system **106**, user computing systems **108**, and third-party

service computing system **110**.” (Fosnacht, ¶0066.) “Web server **102** is a computing system that is in data communication with network **104**.” (Fosnacht, ¶0067.) “In some embodiments, Web server **102** stores and transmits web site data. The web site data is requested by a computing system, such as user computing system **108**.” (Fosnacht, ¶0075.)

With respect to user computing systems **108**, each of them is “a computing system through which a user communicates with network **104**,” such as “a personal computer, a laptop computer, a tablet computer, a handheld computer, a personal digital assistant, a cell phone, or other digital devices.” (Fosnacht, ¶0077.) Figure 1 also shows publisher computing system **106**, which is “a computing system through which a commercial publisher communicates with network **104**,” and like user computer system **108**, can include “a personal computer or a handheld computer.” (Fosnacht, ¶0072.)

Fosnacht thus discloses “**one or more servers**” in the form of web server **102**, shown in Figure 1 above as also including media database **103**, which in turn stores “**a plurality of media messages**,” which take the form of media items such as video recordings. (Fosnacht, ¶¶0067, 0068 (“Media database **103** stores digital data including a plurality of media items, such as audio recordings, video recordings, or other digital media.”).) Although Figure 1 shows media database **103** as part of web server **102**, in another embodiment “media database **103** is a database server that is

in data communication with web server 102.” (*Id.*)

The step of “receiving, at one or more servers, a plurality of media messages,” occurs when users and/or publishers upload media items to the web server. (Fosnacht, ¶¶0349-0355.) Figure 41 shows an upload interface:

The screenshot shows a web browser window with the URL mycatholicvoice.com. The page title is "MyCatholicVoice Beta site (that's Web-speak for 'we're working out the kinks') - We welcome your comments and feedback". The page contains several sections:

- Upload a File** (4100): A section with a heading and a paragraph explaining the upload process. It states: "Uploads typically take 1 to 5 minutes per MB on a high-speed internet connection. Once uploaded, your file will be converted into one of our standard file formats. The item will go through our review process to ensure it meets our Terms of Use. This process can sometimes take up to 24 hours. For more details about uploading media see the Help Center."
- Select File Type** (4102): A section with a heading and a paragraph asking "What type of file are you uploading?". It includes six radio buttons: Music, Video, Photo, Document, PodCast, and Spoken Word.
- Attach to a group** (4104): A section with a heading and a paragraph explaining how to attach media to a group. It includes a dropdown menu labeled "Assign this post to:" with "No Group" selected.
- Describe** (4106): A section with a heading and a paragraph asking "what are these?". It includes a "Title:" field, a "Description:" field, and a "locate this media item." field.
- Select Category** (4108): A section with a heading and a paragraph asking "what are these?". It includes a table of categories with checkboxes:

Age / Gender	Catholic Life	Events	Lifestyle
☐ Adult	☐ Apologetics	☐ Concerts	☐ Business/Vocations
☐ Children	☐ Bible Scripture	☐ Conferences	☐ Family
☐ Men	☐ Catechesis	☐ Contests	☐ Friends
☐ Seniors	☐ Homilies		☐ News/Politics
☐ Women	☐ Mary		☐ Sports
☐ Youth	☐ Mass		☐ Travel
	☐ Parish		
	☐ Saints		
Other	Pop Culture	School / Universities	Spirituality
☐ Other	☐ Books	☐ CCD	☐ Devotion
	☐ Comedy	☐ College/University	☐ Inspiration
	☐ Movies	☐ Grade School	☐ Prayer
	☐ TV	☐ High School	☐ Witness/Testimony

- Allow other users to download this item?** (4110): A section with a heading and a paragraph asking "Allow other users to download this item?". It includes a checkbox labeled "Yes, allow others to download this item."
- Select File** (4112): A section with a heading and a paragraph asking "Select File". It includes a "Browse" button (4120) and an "Upload" button (4122).

The page also features a sidebar on the right with a logo (1334) and a quote: "It is a great consolation to surrender ourselves wholly to God and to know that he sees and penetrates to the very secret of our hearts." attributed to Saint Jane Frances de Chantal.

FIG. 41

(Fosnacht, Fig. 41, ¶0056.) The upload user interface of Figure 41 is not only utilized by users but also by publishers. (Fosnacht, ¶0356.) Fosnacht explains that “[i]nstructions for uploading a file are provided in general instruction section **4102**. After reviewing the instructions, the user selects a file type from file type selection section **4104**. Examples include music, video, photo, document, podcast, and spoken word.” (Fosnacht, ¶0350.) Other sections in Figure 41 provide additional options for the uploaded media item, which are mostly self-explanatory. (Fosnacht, ¶¶351-353.) File section **4114** allows the uploader to select a file associated with the media item. (Fosnacht, Fig. 41.)

The step of “**receiving**” a “**media message**” occurs in Fosnacht when a media item is uploaded to media database **103** which, as noted, is part of web server **102** (“**one or more servers**”). Fosnacht explains that, after a file is selected for upload, “[t]he upload button **4122** is then selected to upload the selected file to the server and to save the media item and associated information in the media database (e.g., **103** shown in FIG. 1).” (Fosnacht, ¶0355;² *see also id.*, ¶0068 (“Web server **102** includes media database **103**.”).) It would also have been apparent and obvious that the server in Fosnacht receives and stores “**a plurality of media messages**,” such as multiple media items uploaded by one or more users or publishers. (Fosnacht,

² Except as otherwise noted, all emphasis was added by Petitioner.

¶¶0068 (“Media database **103** stores digital data including a plurality of media items, such as audio recordings, video recordings, and other digital media.”), 0311 (“... media items uploaded by the user...”); EX1002, ¶¶77-78.) Fosnacht therefore discloses “**receiving, at one or more servers, a plurality of media messages.**”

Fosnacht also discloses and renders obvious that the plurality of media messages can be received from “**one or more applications executable on a corresponding one or more computing devices.**” As noted, Figure 1 shows multiple user computing systems **108**, each of which “is a computing system through which a user communicates with network **104.**” (Fosnacht, ¶¶0073.) Fosnacht further discloses that user computing system **108** includes “a browser software application,” such as the well-known Microsoft Internet Explorer web browser. (Fosnacht, ¶¶0075.) “The browser operates to display a user interface at user computing system **108** to display the web site to the user.” (*Id.*; *see also id.*, ¶¶0089.) Fosnacht further explains user computing system **108** can be a personal computer, mobile device, or “other digital devices configured to communicate digital data across network **104.**” (Fosnacht, ¶¶0073.) Figure 1 as noted also shows publisher computing system **106**, which is “a computing system through which a commercial publisher communicates with network **104**,” and like user computer system **108**, can include “a personal computer or a handheld computer.” (Fosnacht, ¶¶0072.) The claimed “**one or more applications executable on a corresponding one or more computing devices,**”

therefore, take the form of at least one web browser application executable on at least one user or publisher computing system. And as explained above, the web browser on a computing system can be used to upload media items to web server **102**, for example, by one or more users or publishers utilizing the upload interface in Figure 41 discussed above.

Finally, Fosnacht discloses and renders obvious that respective ones of the media messages are “**associated with expiration information.**” More specifically, Fosnacht discloses a number of options for customizing aspects of the media item after upload. (Fosnacht, ¶00356.) Figure 42 includes several of these options, including a starting and ending date the media item will be available on the website:

4200 →

mycatholicvoice
Media Groups Blogs People Shop
Welcome, Patty Clue Search Upload

My Media :: Edit
Media Settings Publisher Settings

General
Snack
Dessert
Thumbnail

Publisher Information

Would you like to enable comment posting for this media item?
☐ Yes ☒ No

Would you like to enable User ratings for this media item?
☐ Yes ☒ No

Start Date May 21, 2006 End Date May 22, 2006

May 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

May 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Media Status?

Public

Save

mycatholicvoice

FIG. 42

(Fosnacht, Fig. 42, ¶0357.) The key feature of Figure 42 here is publication date selection section **4204**, which “allows the publisher to identify a starting date and an ending date for the media item to be available through the web site.” (Fosnacht, ¶0360.) Figure 42 discloses options available for publishers, and although not required by the claim (as both publishers and users can upload media items as

explained above), it would have been obvious to provide the same date selection options for non-publisher users in order to give those users more timing control over presentation of media items they upload. (EX1002, ¶81)

(b) “storing the plurality of media messages on the one or more servers;” (1[b])

As discussed, Fosnacht discloses “**storing the plurality of media messages on the one or more servers,**” *i.e.*, when uploaded media items are stored on media database **103**, which is part of web server **102**. (Fosnacht, ¶¶0355 (“The upload button **4122** [of Figure 41] is then selected to upload the selected file to the server and to save the media item and associated information in the media database (e.g., **103** shown in FIG. 1).”), 0068 (“Web server **102** includes media database **103**.”).)

(c) “selecting, for inclusion in a first feed, a first subset of the respective ones of the media messages from among the plurality of media messages based on the expiration information of the respective ones of the media messages, wherein each of the respective ones of the media messages of the first subset is associated with an advertisement prompt;” (1[c])

The ’591 patent does not provide an express definition of “**feed**” but describes it generally as a series or group of media messages posted by others that can be made available to a user to view. (’591, 3:55-61.) Fosnacht discloses a number of different feeds for displaying media items to users of the system, which disclose the claimed first and second feeds recited in this claim limitation.

For example, welcome page **402** in Figure 4 shows at least three different

feeds for showing “Featured,” “Most Viewed,” and “Newest” media items:

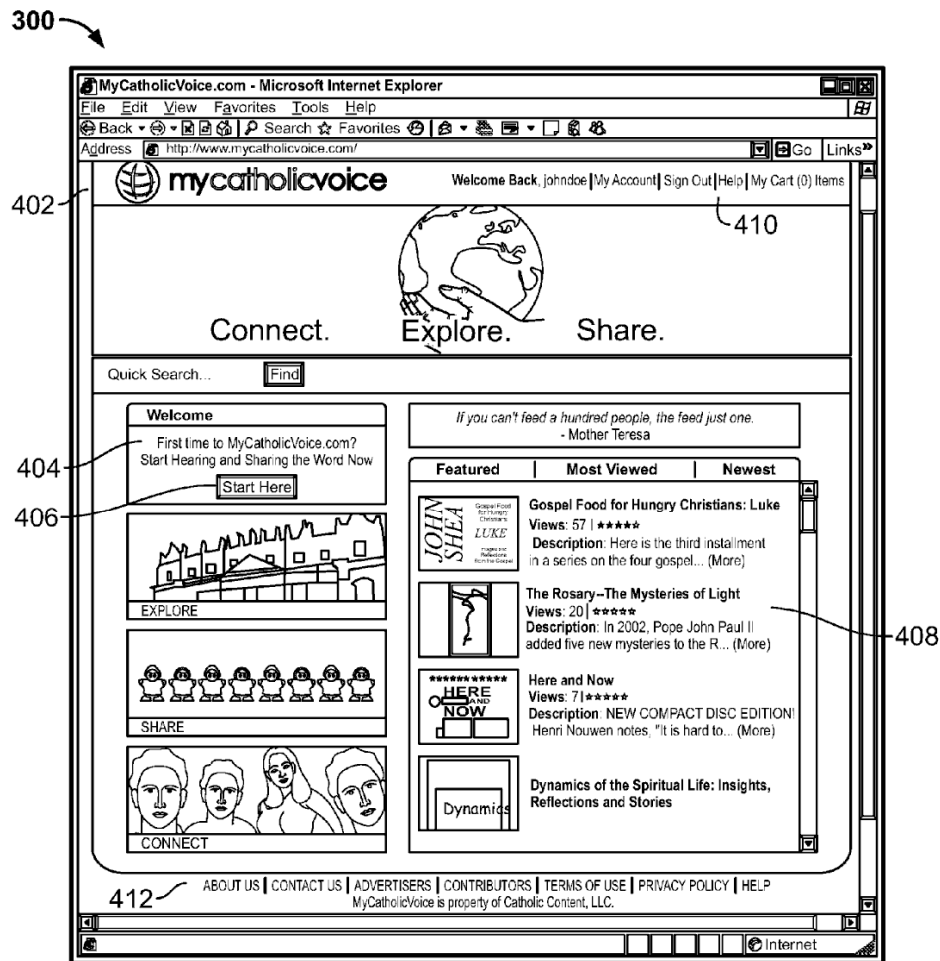


FIG. 4

(Fosnacht, Fig. 4.) “Welcome page 402 includes welcome section 404 and media section 408.” (Fosnacht, ¶0093.) The key feature shown in Figure 4 is media section 408 which, as shown, “includes a featured tab, most viewed tab, and a newest tab.” (Fosnacht, ¶0095.) “If the featured tab is selected, welcome page 402 displays a set of featured content in media section 408. This is also the default tab. If the most viewed tab is selected, welcome page 402 displays a set of the most viewed content, arranged in an order from the content that has been viewed the most to the content

that has been viewed the least. If the newest tab is selected, then welcome page **402** displays a set of the content that was most recently added, arranged in an order from the newest content to the oldest content.” (Fosnacht, ¶0095.) Each of these tabs discloses a distinct “**feed**” that includes a subset of media items from the plurality of media items (such as video recordings).

Fosnacht discloses several other examples of feeds that include a subset of media items that can be presented to users. In one embodiment, users can choose to become members of one or more content centered communities (or groups) and can access associated community pages. (Fosnacht, ¶0114.) A user can access a particular community or group page by activating its link from the user’s home page. (Fosnacht, ¶¶0114 (“If the user was a member of one or more communities, a link would be displayed. Selection of the link would cause web site **300** to display the associated community page.”), 0158.) A community or group page provides information about the community and lists media items available to community members. (Fosnacht, Fig. 10, ¶¶0157-0158.) Figure 10 below shows an exemplary community page **1002**:

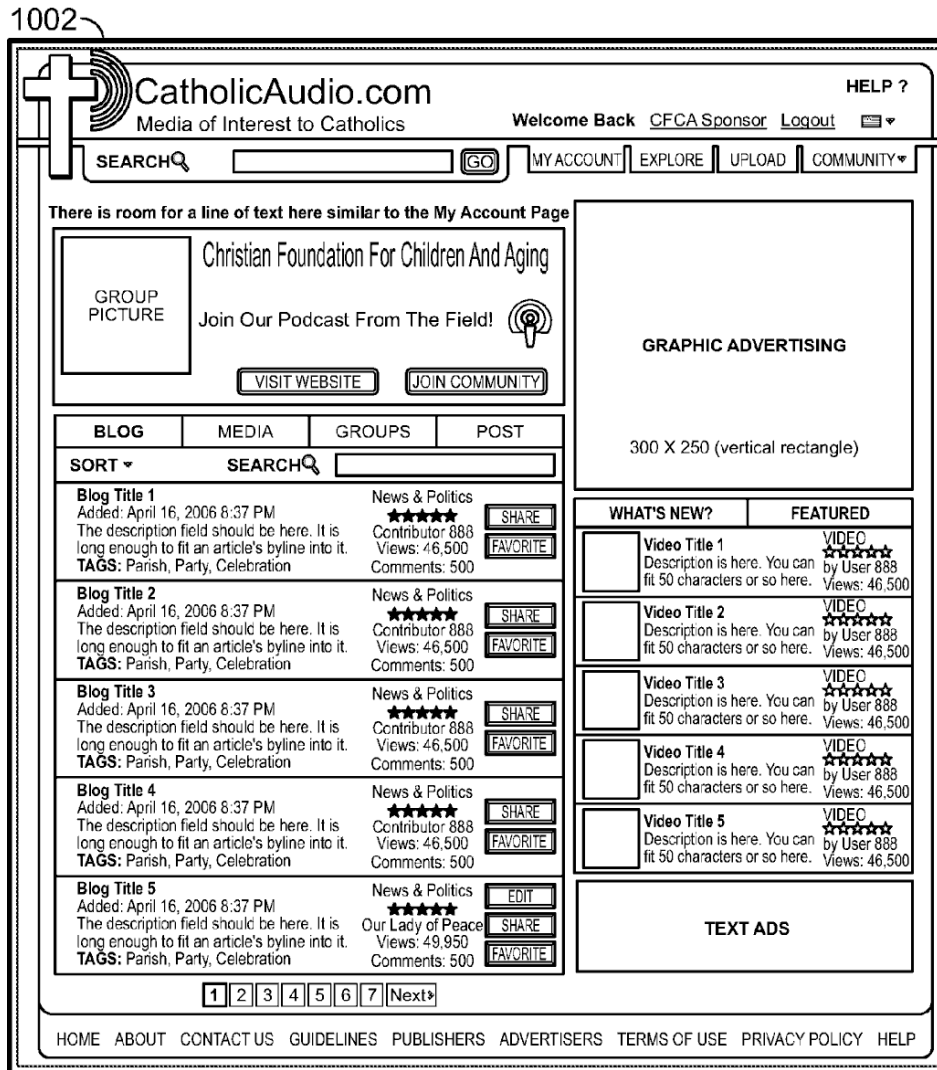


FIG. 10

(Fosnacht, Fig. 10.) An exemplary “feed” from Figure 10 is shown on the right side of the page, which presents a list of media items associated with the community (e.g. “Video Title 1” through “Video Title 5”).

As yet another example of a “feed,” Fosnacht discloses a list of favorite media items, to which users can add media items using a “Save to Favorites” link. (Fosnacht, ¶0122.) “Once saved as a favorite, the user can quickly return to this

media item by selecting it from the favorites section (e.g., **508**) of the MyHome page **502** (shown in FIG. 5), or by navigating to a favorites page that displays the media items that the user has identified as favorites.” (*Id.*) A user’s favorites can also be accessed from the user’s profile page. (Fosnacht, ¶¶306, 310-311, Fig. 15 (media content tab **3506**).) In either case, the list of favorites provides another exemplary “feed” that includes a subset of media items.

As yet another example of a feed, Fosnacht discloses a feature known as a “ticker zone” **1304** that can be displayed on the home page of the website, as shown in Figures 13 and 14. As shown in Figure 14, ticker zone **1304** can present a number of media items in sequence:

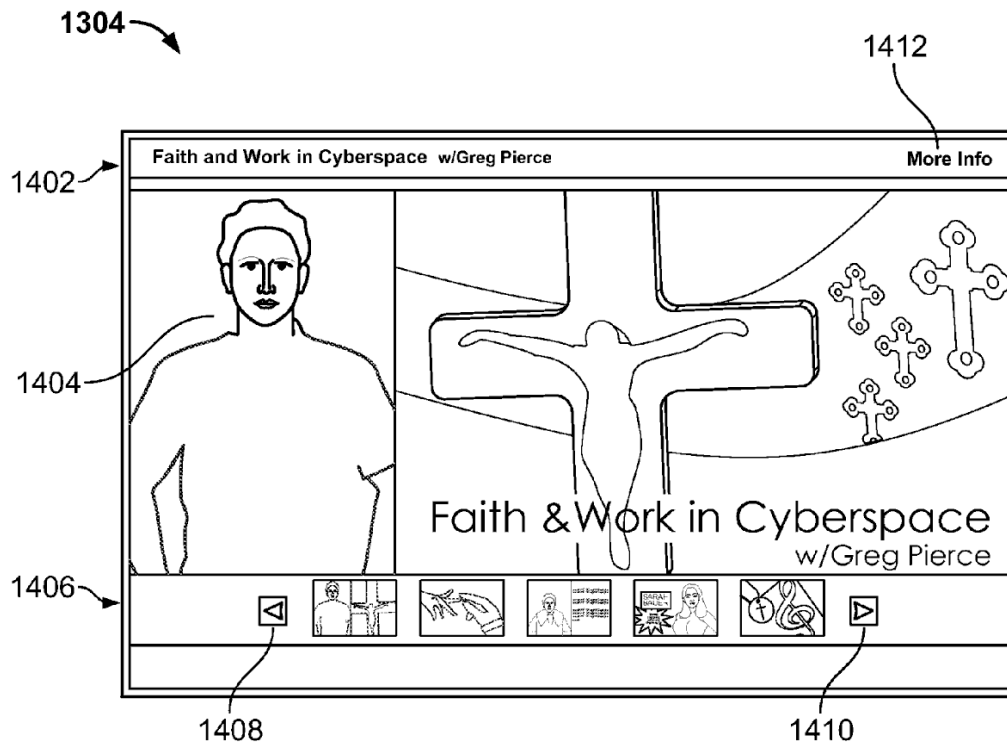


FIG. 14

(Fosnacht, Fig. 14.) “Ticker zone **1304** is a section of home page **1300** where certain content within web site **1100** can be featured,” which can include media items from users or publishers “or any other content available through or associated with web site **1100**.” (Fosnacht, ¶0174; *see also id.*, ¶0183 (“Ticker zone **1304** can be used to feature both publisher content and user generated content.”).) Ticker zone **1304** includes “display region **1404** [that] typically provides a graphical image and brief description of the associated media content. In other possible embodiments an audio or video clip is provided.” (Fosnacht, ¶0177.) “In some embodiments display region **1404** scrolls through a plurality of featured content. For example, the first content is first featured in display region **1404** for a period of time. After the period of time has elapsed, the second content is next displayed. The process continues until all featured content has been displayed.” (Fosnacht, ¶0178.) Ticker zone **1304** therefore provides another example of a “**feed**” that includes a subset of media items from the plurality of media items.

As yet another example, Fosnacht discloses a media browsing interface in Figure 9 that allows the user to browse media items and apply a series of filters to further specify the media items displayed. (Fosnacht, Fig. 9, ¶¶0145-0153.)

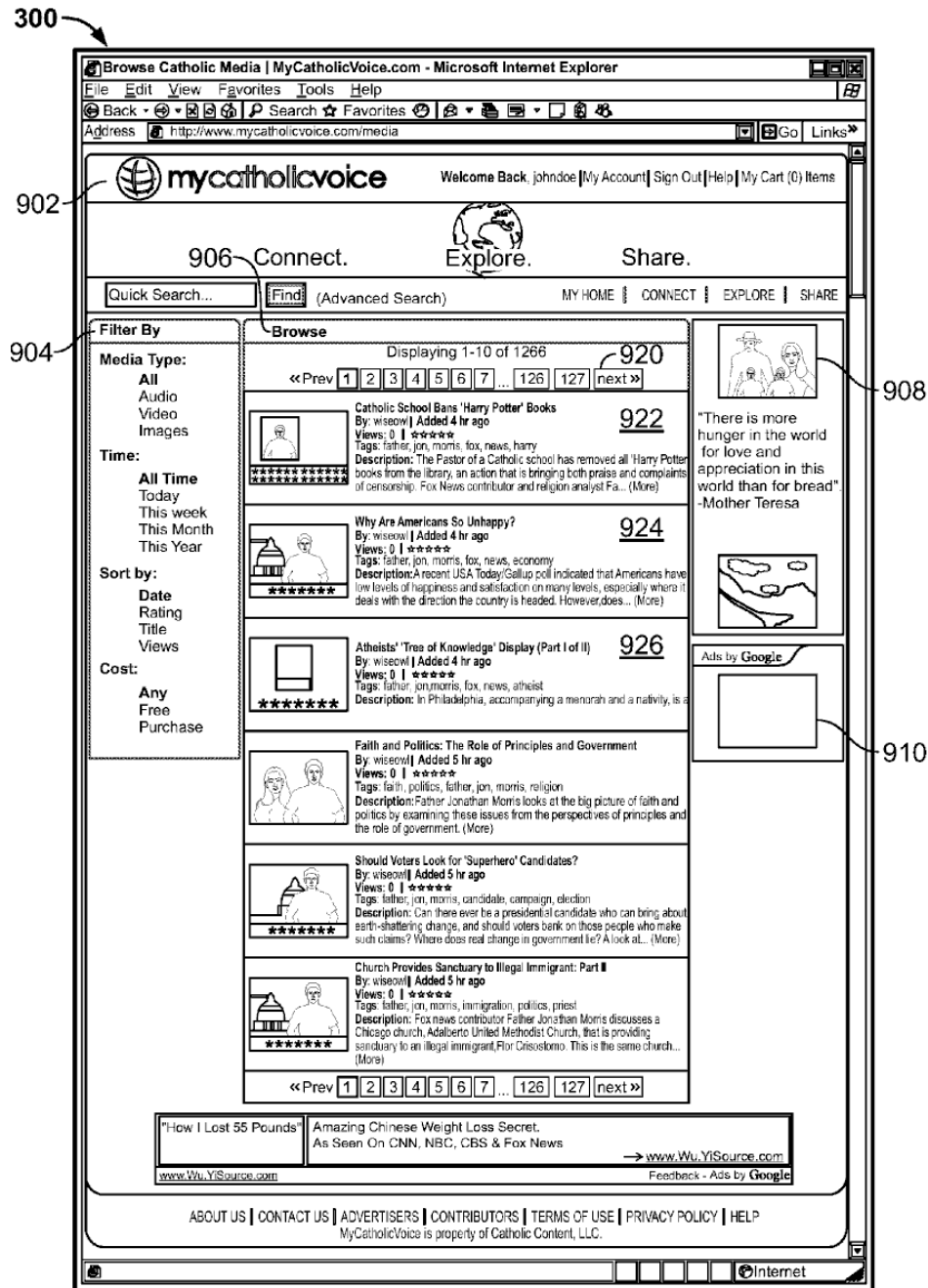


FIG. 9

(Fosnacht, Fig. 9.) “Browsing section 906 [of Figure 9] displays a list of media items that match the criteria specified in filter section 904. In this example, media is displayed as snapshots, including media snapshots 922, 924, and 926. Media snapshots display information about an associated media item.” (Fosnacht, ¶0151.)

These media snapshots include, among other things, a thumbnail and title, as well as the name of the person or publisher who uploaded it. (*Id.*) A list of media items provided to the user in response to the user's search criteria therefore provides yet another example of a **"feed,"** as claimed.

Fosnacht therefore discloses **"selecting, for inclusion in a first feed, a first subset of the respective ones of the media messages from among the plurality of media messages,"** as claimed. This occurs when the server in Fosnacht selects a subset of previously-stored media items to display to the user in at least a first and second feed. For example, each of the examples listed above including the featured, most viewed and newest tabs in media section **408** of Figure 4, the list of video media items in the community page in Figure 10, the media items available through favorites section **508** of Figure 5, ticker zone **1304** in Figures 13-14, and browsing section **906** of Figure 9, provides a **"feed"** that lists a subset of media items. The claimed **"first feed"** and **"second feed"** (discussed below for limitation 1[e]), could be mapped to any two of the examples described above; to take just one example, the **"first feed"** could be mapped to the feed of media items available through the community page in Figure 10, and the **"second"** feed to the subset of items in the ticker zone **1304** of Figures 13-14, but many other combinations are also possible for mapping the two feeds.

Each of the exemplary ways in Fosnacht of displaying a list of media items

discussed above qualifies as a separate “**feed**” under its plain and ordinary meaning consistent with the patent specification. (EX1002, ¶92.) As explained above, the ’591 patent does not provide a definition of “**feed**” but describes it generally as a series or group of media messages posted by others that can be made available to a user to view. (’591, 3:55-61.) This is precisely what each of the examples in Fosnacht discussed above provides. (EX1002, ¶92.)

Additionally, with respect to each of the feeds in Fosnacht, the claimed selecting is “**based at least in part on the expiration information,**” because the expiration information determines whether or not media items will be included in the feed. The expiration information, as explained for limitation 1[a], “allows the publisher to identify a starting date and an ending date for the media item to be available through the web site.” (Fosnacht, ¶0360.) Accordingly, because a media item *cannot* be selected for inclusion in a feed after its ending date (but *can* before that date), the claimed selection is based at least in part on the expiration information.

Finally, Fosnacht discloses that “**wherein each of the respective ones of the media messages of the first subset is associated with an advertisement prompt.**” Petitioner observes that “**advertisement prompt**” does not appear in the written description of the ’591 patent; the embodiment that relates to this claim limitation describes a banner advertisement (such as a Google AdSense or Apple in-app ad) that can be displayed on the user interface for the current media message. (’591,

5:20-23.) This would have indicated, to a person of ordinary skill in the art, that an “**advertisement prompt**” at least includes a conventional advertisement banner, which was a common feature on websites years before the priority date. (EX1002, ¶93.) Fosnacht discloses several examples in which the media messages of the first subset of the first feed are associated with an advertisement banner or prompt.

For example, Fosnacht discloses a media page that the user can access by selecting a particular media item that is displayed in the first feed. (Fosnacht, ¶¶0118 (“If the user wants to get more information about the media item, the user selects the media item. Web site **300** then displays the media page associated with the selected media item.”), 0111 (for Favorites: “The user can select the link to cause web site **300** to display the media page associated with the favorite media.”), 0118 (for Featured media items: “If the user wants to get more information about the media item, the user selects the media item. Web site **300** then displays the media page associated with the selected media item.”), 0181 (for Ticker Zone: “When user wants more information about particular featured content, the user selects more info button **1412**... If the featured content is a media item, then the associated media item page is displayed.”), 0194 (“Each displayed search is also linked to the associated media page....”), 0311 (“The media item is displayed as a thumbnail image **3514**, which is linked to the associated media page.”).) It would have been obvious, with respect to each of the feeds identified for this limitation that list media items, for the user to

have accessed the media page for a media item by clicking on its associated link. A skilled artisan would have been motivated to provide this functionality across all of the feeds in Fosnacht to provide a consistent user interface for allowing the user to access the media page for a media item. (EX1002, ¶94.)

As an example, Fosnacht displays a media page (such as Figure 21) that can be reached by clicking on a media item presented on each “**first feed**,” as fully described above. This page shows at least two advertisement banners:

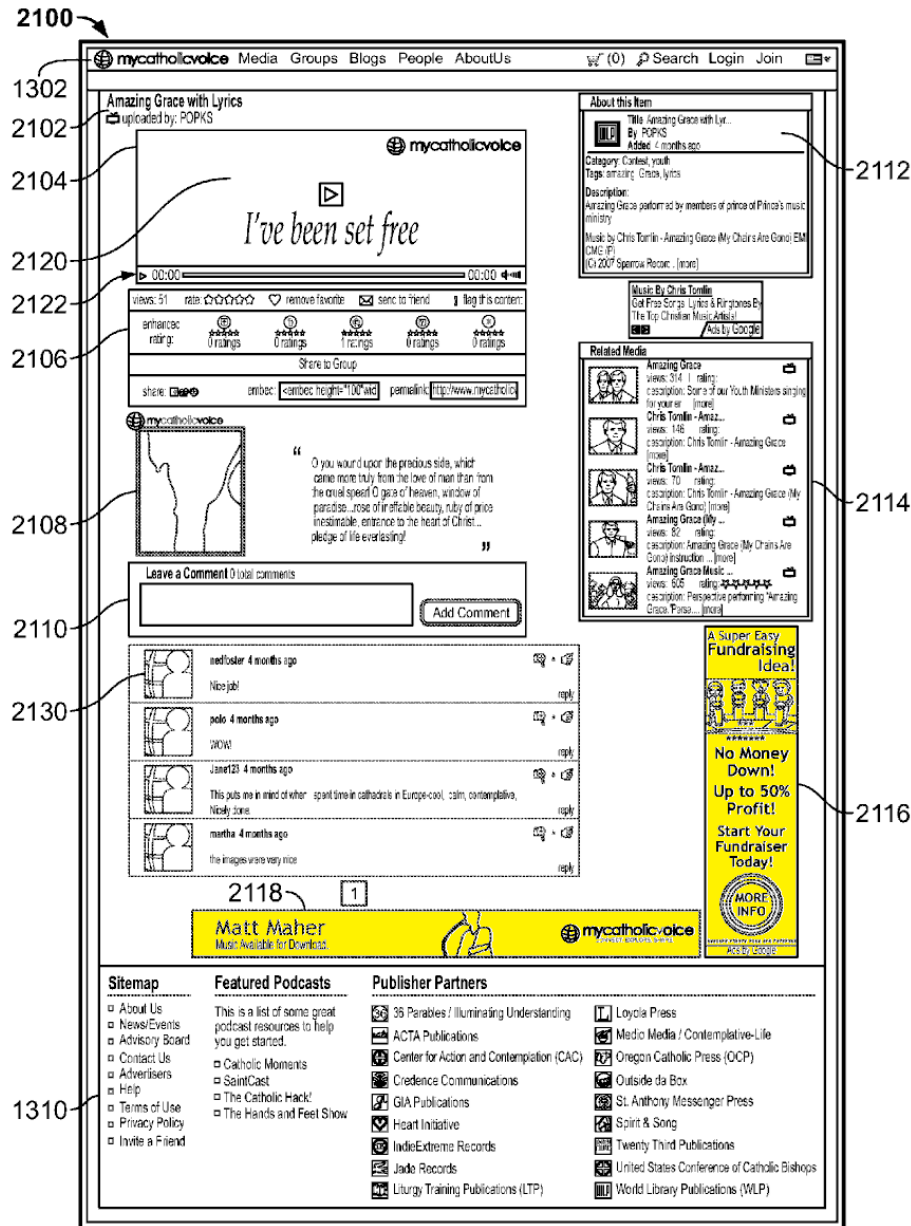
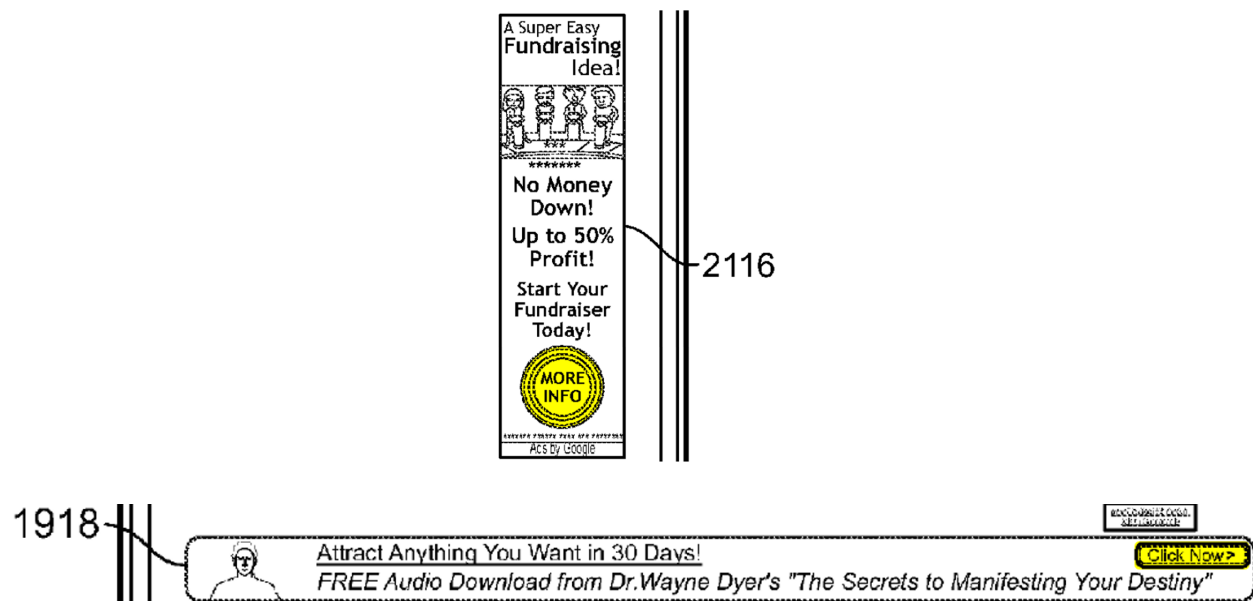


FIG. 21

(Fosnacht, Fig. 21 (highlighting added).) Media page **2100** in Figure 21 displays advertisements **2116** and **2118**. (Fosnacht, Fig. 21, ¶0238.) These qualify as advertising prompts because they display and provide access to advertisements through the media page associated with the displayed media item. The advertisement prompt is “**associated with**” the media items of the first subset

because a banner ad is displayed each media page associated with each media item. These advertisements are also clickable; advertisement **2116** for example displays a Google Ad for a fundraising service and is clickable to provide “More Info” about the service. (Fosnacht, Fig. 21 (**2116**); *see also id.*, Fig. 19 (“Click Now >” button of advertisement **1918**).) For example:



(Fosnacht, Figs. 21 & 19 (excerpts; highlighting added).)

Fosnacht discloses several other examples in which media messages are associated with an advertising prompt. For example, as noted above, Figure 10 shows a community interest page that provides an example of the claimed “**first feed**” for presenting media items, which shows two advertisement prompts:

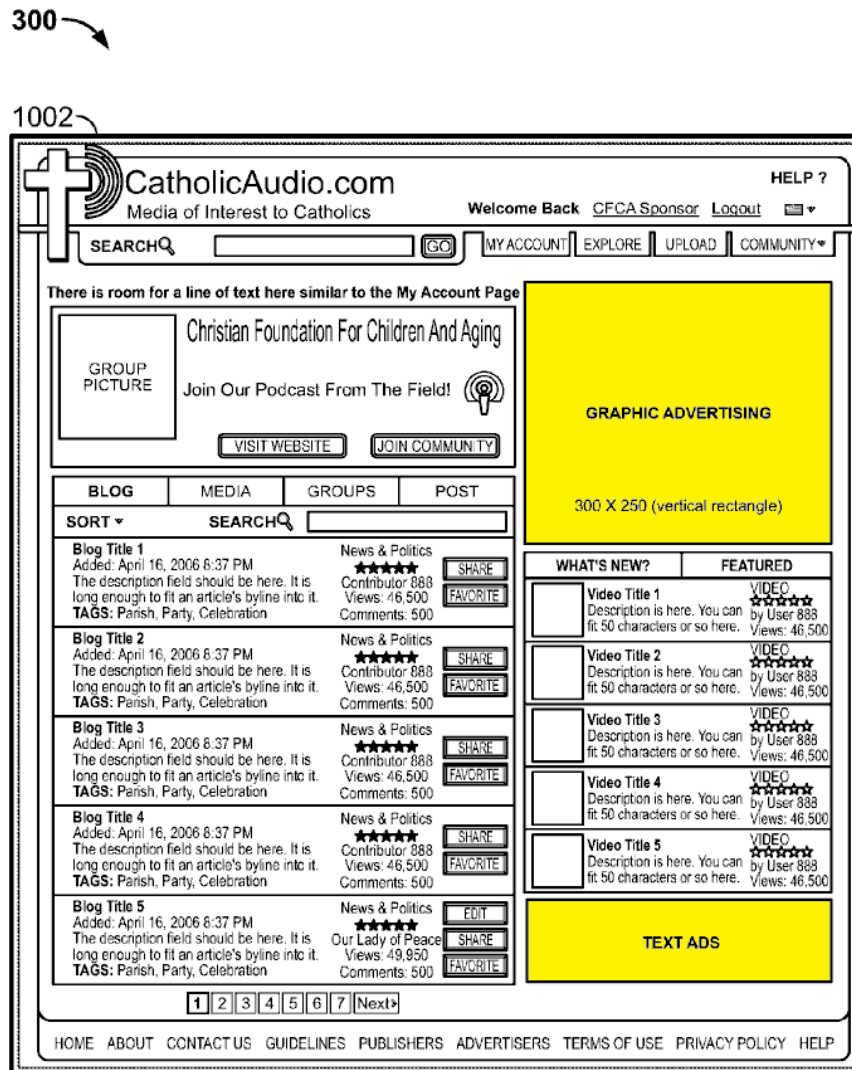


FIG. 10

(Fosnacht, Fig. 10 (highlighting added).) Figure 10, as shown above, shows sections for presenting graphic and text advertisements. As another example, as noted for claim 1, Figure 9 shows a page with media items provided in response to a search criteria, which provides another example of the claimed “**first feed**”:

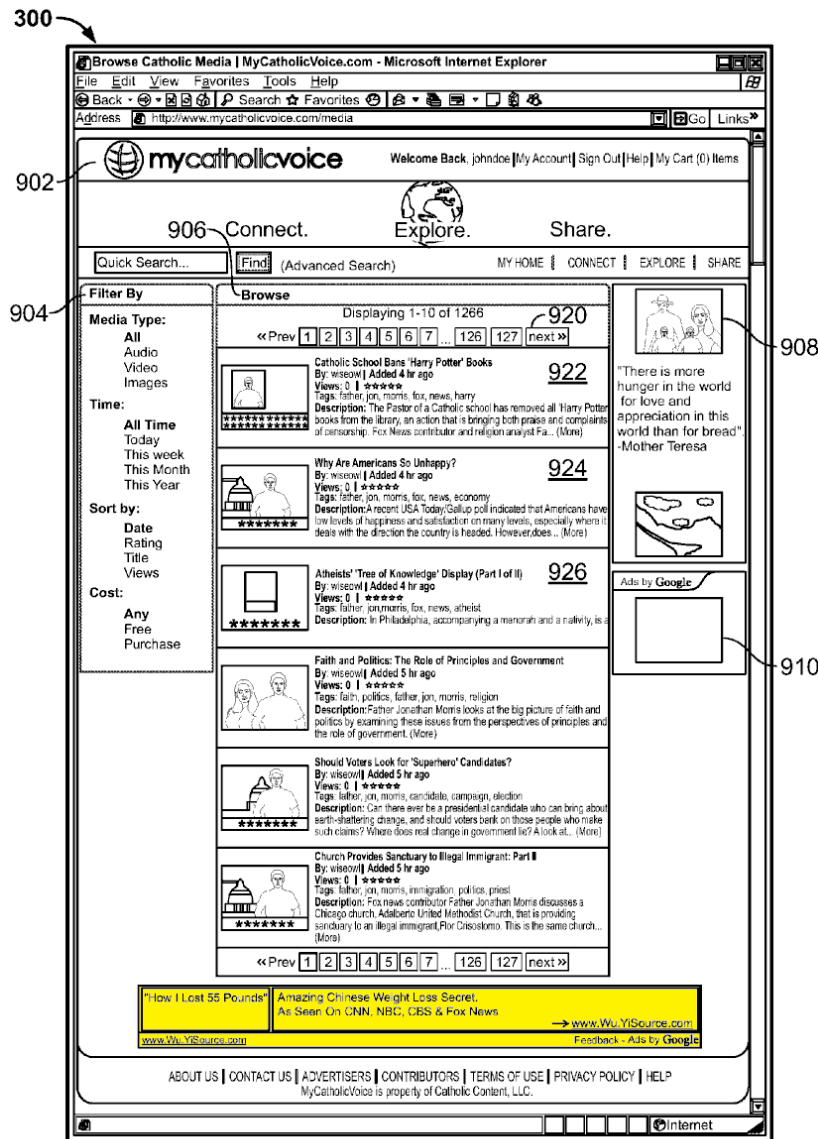


FIG. 9

(Fosnacht, Fig. 9 (highlighting added).) As shown, Figure 9 includes a section for presenting a Google advertisement. Figures 10 and 9 discussed above thus provide further examples of advertisement prompts that are associated with respective ones of the media messages of the first subset (**“each of the respective ones of the media messages of the first subset is associated with an advertisement prompt”**).

Although Petitioner has identified certain exemplary pages in Fosnacht that

expressly show advertising banners, it would have been obvious to provide an advertising banner on other pages in Fosnacht that present further examples of the claimed **“first feed,”** such as the pages in Figures 4-5 and 13-14 discussed above. (EX1002, ¶95.) A skilled artisan would have been motivated to provide advertising banners across these other pages to increase opportunities to present advertising (and thus increase the opportunities for raising revenue) from the media distribution system. (*Id.*; Fosnacht, ¶0110.) In all cases, the advertisement prompts in Fosnacht are **“associated with”** the media items of the first subset because the banner advertisement would have been displayed on the same page and alongside the media items of the first subset of the first feed. This is consistent with the embodiment in the '591 patent, which shows banner advertisement **112** displayed on the same page as a current media item **114**. ('591, Fig. 2.)

- (d) **“providing the first feed to a first mobile application executable on a first mobile device, the first mobile application configured to present the first feed, wherein presentation of the first feed by the first mobile application includes presentation of a media message of the first subset with the advertisement prompt associated with the media message of the first subset;”**
(1[d])

Fosnacht further discloses **“providing the first feed to a first mobile application executable on a first mobile device,”** which takes place when web server **102** provides one or more web pages to a user computing system **108**, the web pages including the **“first feed”** described in the discussion of 1[c]. (Fosnacht,

¶0075.) Fosnacht further discloses that user computing system **108** to which the first feed may be provided, in one embodiment, may be “**a first mobile device**,” such as “a laptop computer, a tablet computer, a handheld computer, a personal digital assistant, [or] a cell phone[.]” (Fosnacht, ¶0073; *see also id.*, ¶0072 (noting that publisher computing system may be “a handheld computer”).) Fosnacht further discloses that the user computing system includes “a browser software application,” such as the well-known Microsoft Internet Explorer web browser. (Fosnacht, ¶0075.) “The browser operates to display a user interface at user computing system **108** to display the web site to the user.” (*Id.*; *see also id.*, ¶0089.) Fosnacht therefore “**providing the first feed to a first mobile application executable on a first mobile device, the first mobile application configured to present the first feed**,” as claimed. Petitioner will separately address, below, a possible narrow construction of “mobile application.”

Limitation 1[d] continues by reciting that “**presentation of the first feed by the first mobile application includes presentation of a media message of the first subset with the advertisement prompt associated with the media message of the first subset**,” and this was largely covered in the discussion of 1[c] above. The step of “**presentation of the first feed by the first mobile application**” occurs when the server in Fosnacht (a) sends a page to the user device showing available media items in the first feed and then (b) allows the user to view one or more selected media

items from the first feed through media page associated with those media items. More specifically, step (a) occurs in Fosnacht when the server sends a page listing available media items in the “**first feed**,” such as the page listing items in the featured, most viewed and newest tabs in media section **408** of Figure 4, the community page in Figure 10, the page showing favorites section **508** of Figure 5, the page showing ticker zone **1304** in Figures 13-14, and the page showing browsing section **906** of Figure 9. With respect to step (b), the server in Fosnacht sends a media page to the user that in response to the user selecting a particular media item, as explained above. (Fosnacht, ¶¶0118 (“If the user wants to get more information about the media item, the user selects the media item. Web site **300** then displays the media page associated with the selected media item.”), 0119.) Both of these steps, as explained, result in “**presentation of a media message of the first subset with the advertisement prompt**,” because the advertisement is displayed on the media item page displaying a media message in the first subset (*e.g.* Figure 21), as well as on the community interest page (Figure 10) and search results page (Figure 9) that list the media items in the first subset. As explained for limitation 1[c], moreover, it would have been obvious to present an advertising prompt on other pages, including the pages in Figures 4-5 and 12-13 that provides further examples of the claimed first feed. (EX1002, ¶95.)

Although this mapping presents the first feed using two pages, this is

consistent with the '591 patent, which shows a first screen (Figure 2) for displaying a current media message , and a second screen (Figure 3) for displaying information about the creator of the media item and providing a share button **128** for sharing the media item. ('591, Figs. 2-3, 5:11-54.) The display of the current media message in Figure 2, in fact, is closely analogous to the media item page in Fosnacht.

Possible Narrow Interpretation of “Mobile Application”

The '591 patent does not provide a definition of “**mobile application**.” The term “**application**” in computer science would have been generally understood as referring to a software program designed to perform a specific task. (EX1002, ¶100 (citing EX1006, p.007, EX1007, p.008).) Accordingly, a web browser executing on a mobile device as disclosed in Fosnacht would qualify as a mobile application based on its plain and ordinary meaning under the '591 patent. This is also consistent with other claims of the '591 patent that expressly recite that interaction with an advertisement prompt in the first feed “**initiates presentation of a webpage by the first mobile application**.” ('591, Claims, 3, 23.) Presentation of a webpage is precisely what a mobile web browser application does. (EX1002, ¶100.)

Petitioner notes that it is possible Patent Owner could later attempt to argue that “**mobile application**” should be more narrowly construed as a software program (other than a general-purpose web browser application) written specifically for a particular mobile device, which was commonly referred to as a “native” mobile

application. (EX1002, ¶101.) Nothing in the patent requires that a “**mobile application**” be a non-browser or native application, but in the event the Patent Owner later makes this argument, the claimed mobile application would have been obvious over Fosnacht in further view of Kirkpatrick.

Kirkpatrick describes a series of techniques for creating what are commonly called “native applications” for accessing content and features available through a web site. (Kirkpatrick, 3:26-29.) The term “native application” refers to a software application (typically for a mobile device) written specifically a particular type of device. (EX1002, ¶102.) A key feature of “native” applications is that they can typically execute and function without requiring use of a web browser application (although many native applications can utilize the device’s general purpose web browser to present pages). Native applications are used by millions of Apple iPhone and Google Android smartphone users each day; for example, through mobile applications such as YouTube, TikTok, eBay, among others. Most of the “apps” available from the App Store (for Apple iOS devices) or the Google Play Store (for Android devices) are considered native applications. (*Id.*)

One of the key reasons some developers prefer native applications over applications provided via a web browser is that native applications can be more tailored to the particular characteristics of the device. (EX1002, ¶103.) As Kirkpatrick explains, a native application can, among other things, “format the

content in a way that is more conducive to display on a small screen of the mobile device (e.g., a screen of a cell phone).” (Kirkpatrick, 3:35-37.) Mobile device adoption exploded after 2007 due to widespread availability of modern smartphones such as Apple’s iPhone and devices running Google’s Android operating system, and the opening of app “stores” allowing developers to create and widely distribute applications for these types of devices. (EX1002, ¶¶104, 115.) These developments caused many developers to begin transitioning from web sites to native applications for some of their mobile device users. Kirkpatrick describes one technique for facilitating that transition.

Kirkpatrick, assigned to Google (the makers of the popular Android mobile operating system), describes a unified framework for providing web-based features through “native” applications (which Kirkpatrick also refers to as “non-browser” applications). In broad overview, Kirkpatrick discloses a technique for allowing a native/non-browser application on a mobile device to receive web content and then reformat or process that content for display on the mobile device. Figure 1A shows the primary components of the disclosed system in one embodiment:

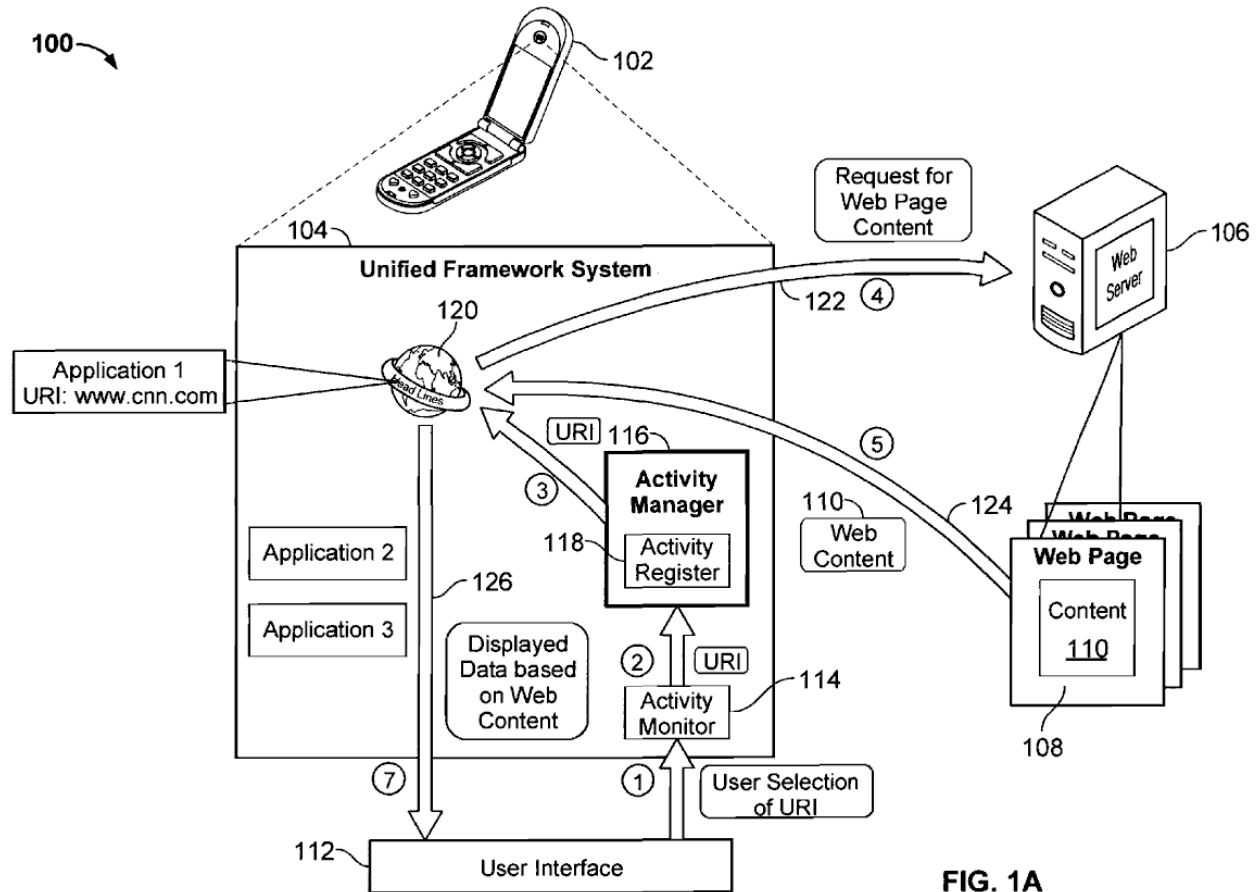


FIG. 1A

(Kirkpatrick, Fig. 1A.)

Figure 1A shows “cell phone **102** that has a unified framework system **104** that can integrate native applications and web content. The system **100** also includes a web server **106** that stores one or more web pages **108** that have content **110** (e.g., text, images, video, etc.).” (Kirkpatrick, 4:10-15.) In the example shown above, the user has selected a Uniform Resource Identifier (URI) for the website, www.cnn.com. (Kirkpatrick, 4:15-19.) Kirkpatrick explains that “[t]he unified framework system **104**,” which is contained in cell phone **102**, “can have several components that are activated when the user selects the URI. The components may include an activity monitor **114** that detects the selection of the URI, an activity

manager **116** having an activity register **118**, and an application **120** (shown here as an application titled ‘Headlines’).” (Kirkpatrick, 4:19-25.)

“Once the activity monitor **114** detects the selection of the URI, the monitor **114** can forward the URI to the activity manager **116**. The activity manager can access the activity register **118** to determine which application is associated with the URI.” (Kirkpatrick, 4:26-30.) In Figure 1A, the exemplary native/non-browser application **120** is called “Headlines.” The URI is then forwarded to the application **120**, which requests web content from the web server **106** as shown in arrow **122**, which returns web content **110** to the application **120** as shown in arrow **124**. (Kirkpatrick, 4:30-41.) “The Headlines application, in some implementations, can reformat or otherwise process the web content and display the results to the user interface **112** as indicated by the arrow **126**.” (Kirkpatrick, 4:46-48.)

Figure 1B shows another embodiment in which the native/non-browser application **160** is be used to upload a photo to web server **156**:

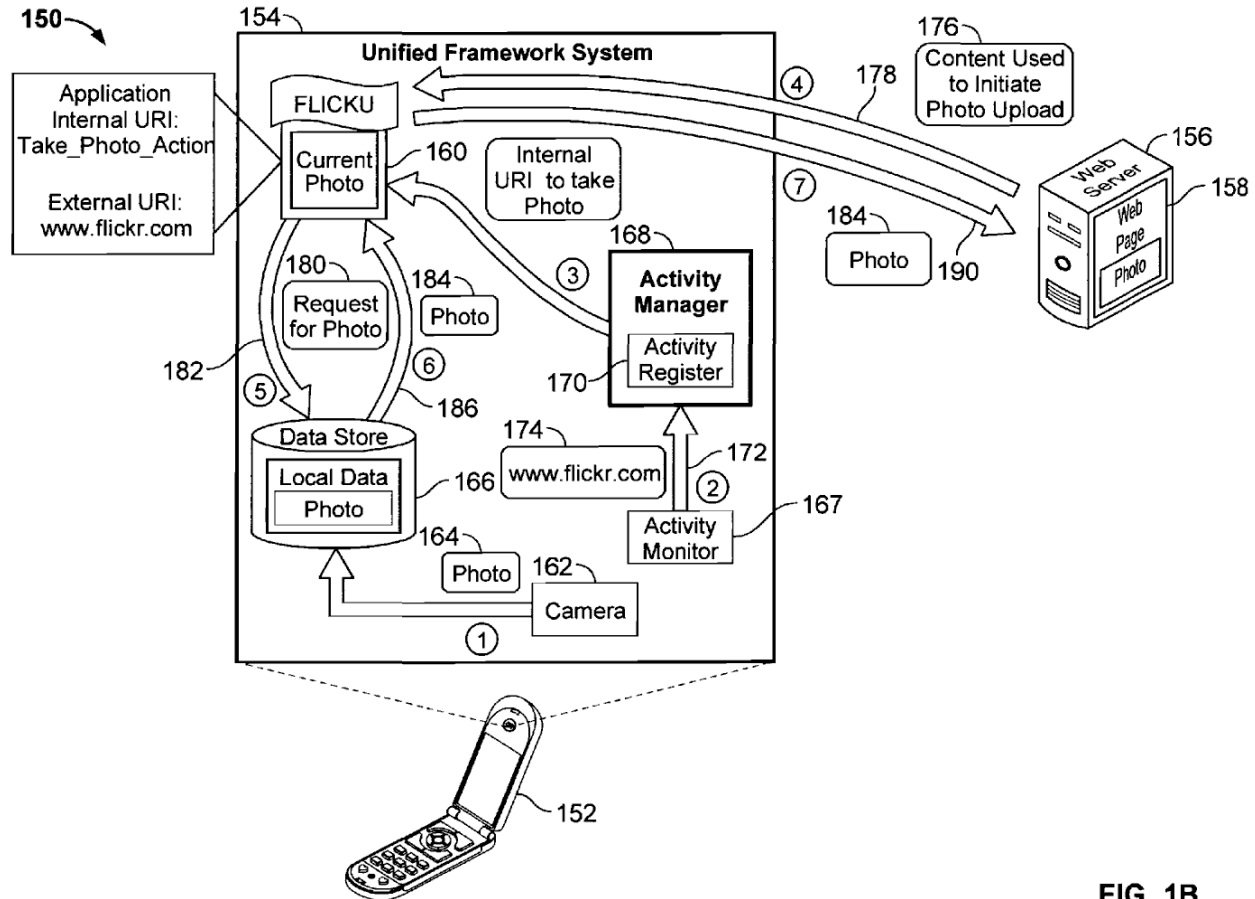


FIG. 1B

(Kirkpatrick, Fig. 1B.)

Figure 1B is similar in some respects to Figure 1A except that Figure 1B describes a different exemplary non-browser application **160** called “FlickU” that accesses the popular photo sharing website, www.flickr.com. (Kirkpatrick, 4:52-60.) As shown, photo **164** is taken using camera **162** of mobile device **152**, which is then stored in the local data store **166** of the device. (Kirkpatrick, 4:66-5:16.) The FlickU application **160** then requests information from web server **156** about uploading photos, as shown by arrow **178**. (Kirkpatrick, 5:29-39.) The FlickU application **160** then retrieves the photo from the local data store **166**, and uploads

photo **184** to web server **156** as shown by arrow **190**. (Kirkpatrick, 5:40-63.)

Kirkpatrick discloses a further embodiment in which a non-browser application called “YouTube Enhanced” is provided for accessing the popular YouTube video sharing website. In this embodiment, all URIs that point to the YouTube website (*i.e.* all URIs that include “www.youtube.com”) can be forwarded to YouTube Enhanced for processing. (Kirkpatrick, 6:21-35.)

Rationale and Motivation to Combine (Fosnacht and Kirkpatrick): It would have been obvious to combine Fosnacht with Kirkpatrick. The combination would have resulted in the media distribution system of Fosnacht, adapted to allow a mobile device to access the system through a native/non-browser application instead of through a web browser application. As applied to limitation 1[d], therefore, the proposed combination would have resulted in web server **102** of Fosnacht providing the first feed “**to a first mobile application executable on a first mobile device,**” *i.e.*, through one or more native/non-browser applications executing on a mobile user computing system **108**. Accordingly, the features of the web site in Fosnacht and relied upon for the challenged claims, including the presentation of the first feed and media items as described above, would have been performed by a native/non-browser mobile application executing on a first mobile device instead of a mobile web browser. (EX1002, ¶111.)

For example, in one exemplary implementation of the proposed combination,

all of the URIs for the media distribution web site in Fosnacht (*i.e.*, all URIs containing the string `www.mycatholicvoice.com`, *see* Fig. 3) would have been processed by a native/non-browser application on the mobile device instead of the web browser application. (EX1002, ¶112.) This is consistent with an exemplary embodiment in Kirkpatrick describing the use of a native/non-browser application for accessing features of the popular YouTube video sharing website, which provides similar functionality to the media distribution website in Fosnacht. (Kirkpatrick, 6:21-28.) YouTube was (and remains today) a well-known video sharing website that provides features similar to Fosnacht, and Fosnacht itself specifically refers to YouTube as providing similar features. (Fosnacht, ¶0003.)

Fosnacht and Kirkpatrick are analogous references in the same field of endeavor of the '591 patent, which discloses systems and processes for distributing media messages to mobile devices over the Internet. (EX1002, ¶113.) The analogousness of Fosnacht is further highlighted by the fact that, like the '591 patent, Fosnacht discloses embodiments for distributing religious or prayer-oriented media messages. (Fosnacht, *e.g.*, Figs. 4-11.) Kirkpatrick similarly discloses techniques for creating native/non-browser mobile applications for distributing media such as photos and videos over the Internet. (Kirkpatrick, 5:17-63 (FlickU example), 6:21-35 (YouTube Enhanced example).) Both references would also have been reasonably pertinent to problems facing the inventor. (EX1002, ¶113.)

A person of ordinary skill in the art would have been motivated to combine. It was widely known that native/non-browser mobile applications provided benefits over web-based applications that rely on a web browser, including the ability to have fuller access to the features and capabilities of the mobile device. (EX1002, ¶¶114, 102-104.) Kirkpatrick provides an express motivation to combine by extolling its advantages as including, among others, “seamless integration between viewing locally stored content and remote content” and the ability to intercept URIs “so that content from a web page is displayed within an application optimized for the displaying device.” (Kirkpatrick, 2:30-36.) Kirkpatrick further states that the exemplary YouTube Enhanced mobile application “can be optimized for display on small screen devices, while the YouTube web page may not be easily viewed on a small screen.” (Kirkpatrick, 8:43-46; *see also id.*, Fig. 7B.)

Market forces would have also provided a powerful motivation to combine; native mobile applications were becoming popular as of the priority date as a result of sales of tens of millions of devices such as the Apple iPhone, and tens of thousands of apps becoming available. (EX1002, ¶115.) The commercial desirability of native/non-browser mobile applications, coupled with the other benefits described above, would have motivated a skilled artisan to adapt the media distribution web site of Fosnacht to be accessible via a native/non-browser application. (*Id.*) Finally, a person of ordinary skill in the art would have had at least a reasonable expectation

of success, as the proposed combination would have involved nothing more than standard and conventional techniques. (EX1002, ¶116.)

- (e) **“selecting, for inclusion in a second feed, a second subset of the respective ones of the media messages from among the plurality of media messages based on the expiration information of the respective ones of the media messages, wherein each of the respective ones of the media messages of the second subset is associated with an advertisement prompt; and” (1[e])**

This limitation is substantially identical to limitation 1[c] except that it recites a **“second feed”** and **“second subset”** instead of a **“first feed”** and **“first subset.”** As explained for 1[c], Fosnacht discloses several examples of feeds including the featured, most viewed and newest tabs in media section **408** of Figure 4, the list of video media items in the community page in Figure 10, the media items available through favorites section **508** of Figure 5, ticker zone **1304** in Figures 13-14, and browsing section **906** of Figure 9, as each provides a **“feed”** that lists a subset of media items. As noted for 1[c], the claimed **“first”** and **“second”** feeds could be mapped to any two of the examples described above; to take just one example, the **“first feed”** could be mapped to the feed of media items available through the community page in Figure 10, and the **“second feed”** to the subset of items in the browsing section of **906** in Figure 9, but many other combinations are also possible for mapping the two feeds. And just like the first feed discussed for 1[c], the selecting for the second feed is **“based on the expiration information of the**

respective ones of the media messages,” *i.e.*, based on at least the ending date specifying when the media item will no longer be available, for the same reasons discussed above. (EX1002, ¶91; Fosnacht, ¶0360.) And similarly, **“each of the respective ones of the media messages of the second subset is associated with an advertisement prompt,”** because each media item in the second subset would have been associated with the banner displayed on media item pages for each of the media items (*e.g.* Figure 21) as well as with banner ads on a page that listing the media items in the second subset (*e.g.* Figure 9), as explained for 1[c].

- (f) **“providing the second feed to the first mobile application, the first mobile application configured to present the second feed, the second feed differing from the first feed, wherein presentation of the second feed by the first mobile application includes presentation of a media message of the second subset with the advertisement prompt associated with the media message of the second subset.”** (1[f])

This limitation is substantially similar to 1[d], except it relates to the **“second feed”** instead of the **“first feed.”** This limitation is disclosed and rendered obvious for the same reason as 1[d], and occurs when the **“second feed”** is provided to and presented to the mobile application, which is configured to present the second feed, a media message of the second subset, and the advertising prompt associated with the media message of the second subset. The second feed would also be provided **“to the first mobile application,”** based on the disclosures of Fosnacht alone or in view of Kirkpatrick as explained for 1[d].

It would also have been obvious that the “**first feed**” and the “**second feeds**” differ from each other, as each shows a different subset of media items. For example, Fosnacht discloses an interactive user interface that would have allowed the user to navigate and view the “first” and “second” feeds. For example, the “Featured,” “Most Popular” and “Newest” feeds in Figure 4 described in connection with limitation 1[c], are activated by user-selectable tabs through the user interface. (Fosnacht, Fig. 4, ¶¶0095 (“If the featured tab is selected, welcome page **402** displays a set of featured content.... If the most viewed tab is selected, welcome page **402** displays a set of the most viewed content... If the newest tab is selected, then welcome page **402** displays a set of the content that was most recently added[.]”).) Similarly, the community page and the media browsing pages described above in connection with limitation 1[c] are activated by user-selectable links. (Fosnacht, ¶¶0114 (“The Communities section **514** (also sometimes referred to herein as a group) includes links to the community pages of any communities that the user is a member.”), 0145 (“FIG. 9 is a screen shot of an exemplary media browsing page **902**. Media browsing page **902** is displayed, for example, when a user selects Explore from the quick links bar (e.g., **504** described herein with reference to FIG. 5).”).) The feeds in Fosnacht differ from one another because each feed serves a different purpose (*e.g.*, to list media items based on the ones that are new, featured, popular, favorite, based on a particular community, meeting the user’s

search filters, and so forth), and thus, it would have been obvious that each of these feeds would have presented a different subset of media items. (EX1002, ¶120.) As noted above, moreover, these feeds are displayed in response to the user navigating to different parts of the media distribution service in Fosnacht, thus further demonstrating that they represent different feeds.

Even if the claim were interpreted to require that the two feeds have entirely non-overlapping media messages, Fosnacht would satisfy any such requirement. For example, Fosnacht confirms, in one embodiment, that media items uploaded to a community may be designated as private to that community. (Fosnacht, ¶0157.) Under this embodiment, if the first feed was a community- or group-based page with uploaded media items designated as private to that community, then those media items would not be presented via the second feed. (EX1002, ¶120.)

2. Claim 2: “The method of claim 1, wherein interaction with the advertisement prompt associated with the media message of the first subset included in the first feed initiates presentation of additional advertising content.”

As explained for 1[c], Fosnacht discloses display of an advertisement prompt such as a banner advertisement. It would have been obvious that “**interaction with the advertisement prompt**” would have resulted in presentation of “**additional advertisement content**,” as claimed. For example, as explained for 1[c], Figure 21 shows advertisement **2116** shown in Figure 21 that includes a “MORE INFO” region allowing the user to click to present additional information about the advertised

music offerings. (Fosnacht, Fig. 21.)

It therefore would have been obvious that clicking on any one of the advertisement banners in Fosnacht would have caused presentation of additional advertising content, such as more information about the fundraising service offered in advertisement **2118** of Figure 21, more information about the downloadable music offered in advertisement **2116** of Figure 21, more information about the weight loss service offered in Figure 9, and so forth. (EX1002, ¶122.)

It would also have been obvious that the user clicking on any of these advertisements would have caused presentation of additional advertising content because the mere act of clicking on an advertisement on a web page would generally not alone have resulted in purchase of the advertised product or service. (EX1002, ¶123.) As would have been obvious to a skilled artisan, clicking on an advertisement would have taken the user to another page (such as the advertiser's page) in which additional advertising and promotional material would have been presented encouraging the user to consummate a commercial transaction by purchasing the advertised product or service (or some other product or service offered by the advertiser). (EX1002, ¶¶123, 149 (citing EX1007).) Petitioner also provided a separate **Ground 2**, below, which relies on Sharma to further confirm that it would have been obvious to present additional advertisements to a user in response to clicking on an advertisement in Fosnacht.

3. **Claim 3: “The method of claim 1, wherein interaction with the advertisement prompt associated with the media message of the first subset included in the first feed initiates presentation of a webpage by the first mobile application.”**

As just explained for claim 2, it would have been obvious that interaction with the advertisement prompt in the first subset (such as clicking on the advertisement) would have resulted in presentation of a webpage, for example, an advertiser webpage where additional information would have been provided. Under the combination of Fosnacht with Kirkpatrick, as explained for 1[d], the presentation of a webpage would have been performed **“by the first mobile application.”**

4. **Claim 4: “The method of claim 1, wherein presentation of the first feed by the first mobile application includes presentation of a sharing prompt with the media message of the first subset included in the first feed, wherein interaction with the sharing prompt via the first mobile application facilitates generation of a link configured to enable access to the media message.”**

The prior art discloses and renders obvious that presentation of the first feed **“includes presentation of a sharing prompt with a media message of the first subset included in the first feed.”** The sharing prompt appears on the media page discussed in detail for 1[c], and more specifically, takes the form of sharing options **730** shown in Figure 7 of Fosnacht reproduced above, sharing options **830** shown in Figure 8, and the sharing links feature available through tool bar **2106** shown in Figure 21. In reference to Figure 7, Fosnacht explains, “[m]edia player section **704** also includes a sharing options link **730**. Clicking on this link causes web site **300** to

display a sharing options page.” (Fosnacht, ¶0125; *see also id.*, Fig. 8 (showing sharing options feature for video media page).) Fosnacht explains, with reference to sharing options link **730**, that “[e]xamples of sharing options include the ability to link the media item to a third-party service (e.g., **110** shown in FIG. 1), to generate an e-mail to a friend regarding the media item, or other sharing options.” (Fosnacht, ¶0125.) Similarly, Figure 21 shows tool bar **2106**, which provides various options including sharing features including “share:”, “embed:”, and “permalink:” (Fosnacht, Fig. 21.) As explained for 1[d] above, it would have been obvious based on Fosnacht alone or in view of Kirkpatrick that presentation of and interaction with the user interface features of Fosnacht (which would include the sharing options) would be via “**the first mobile application.**” (EX1002, ¶¶96-97, 100-115.)

Fosnacht further explains these sharing options result in generation of a link (e.g. a URL) to enable access to the media item. (Fosnacht, ¶0237 (“Sharing links **2034** allow users to interconnect the media page **1900** with external systems or third-party services... such as facebook, digg, and stumble upon. In addition, URLs are provided to allow a user to easily embed the media item in their own or other web sites (embed), or to link directly to the media page (permalink) from their own or other web sites.”).) The term “URL” refers to Uniform Resource Locator, the standard address used to uniquely identify and locate a resource on the Internet (such as a web page), and it would have been apparent that the media page in Fosnacht

would have been identified by at least its own URL. (EX1002, ¶125.) Fosnacht further discloses that the first feed “**includes presentation of a sharing prompt with a media message,**” because as explained, the media page containing the sharing prompt is accessed by the user when the user selects a media item to display from the list of media items in the first feed.

Fosnacht further discloses and renders obvious that interaction with the sharing prompt “**facilitates generation of a link configured to enable access to the media message,**” as claimed. This is because, as explained, the sharing prompt in Fosnacht available through Figure 7, 8, or 21, all result in generation of a link to enable access to the media item. The disclosures above, for example, confirm that Fosnacht generates a link (*e.g.* permanent link or permalink) for the media page of a particular media item, allowing the media page to be accessed through that link, for example, on another site. It thus would have been obvious that the link generated in Fosnacht enables access to the media item because it allows the user to link to the media page for the media item, or to embed the media item in their own sites. (EX1002, ¶126.) In either case, interacting with the sharing prompt in Fosnacht (via web browser or other mobile application) facilitates generation of “**a link configured to enable access to the media message.**”

5. **Claim 5: “The method of claim 1, wherein presentation of the first feed by the first mobile application includes presentation of a bookmark prompt with the media message of the first subset included in the first feed, wherein interaction with the bookmark prompt via the first mobile application enables the media message to be listed with another bookmarked media message through the first mobile application.”**

Like the sharing prompt just discussed above for claim 4, a “**bookmark prompt**” appears on the media page for a selected media item, and more specifically, as a “Save to Favorites” link available on the media page. For example, with reference to Figure 7, Fosnacht explains that “[t]he Save to Favorites link is selectable to save this media item to the user’s list of favorite media items.” (Fosnacht, ¶0122.) As explained for 1[d] above, it would have been obvious based on Fosnacht alone or in view of Kirkpatrick that presentation of and interaction with the user interface features of Fosnacht (which would include the favorites options) would be via “**the first mobile application.**” (EX1002, ¶¶96-97, 100-115.)

Petitioner notes that the ’591 patent provides only a single sentence describing the claimed bookmark feature, which only discloses displaying bookmarked media messages and does not describe the claimed feature of bookmarking a media message using a bookmark prompt. (’591, 5:30-32.) Nevertheless, a person of ordinary skill in the art would have understood “**bookmark**” in this context to refer generally to a feature common in web browsers in which a user could store a reference or shortcut to a piece of content, allowing the user to easily return to it at

a later time. (EX1002, ¶128.) Bookmarking was (and remains today) a well-known feature of web browsers for allowing users to create a list of their favorite and/or often-visited web pages. (*Id.*)

The “Save to Favorites” feature of Fosnacht thus discloses “**a bookmark prompt**” with which interaction “**enables the media message to be listed with another bookmarked media message through the first mobile application.**”

This is because the Save to Favorites feature adds the current media item “to the user’s list of favorite media items.” (Fosnacht, ¶0122.) “Once saved as a favorite, the user can quickly return to this media item by selecting it from the favorites section (e.g., **508**) of the MyHome page **502** (shown in FIG. 5), or by navigating to a favorites page that displays the media items that the user has identified as favorites.” (*Id.*; (underlining added); *see also id.*, Fig. 5 (showing “Favorites” section **508**).)

6. **Claim 6: “The method of claim 1, wherein presentation of the first feed by the first mobile application includes presentation of an item purchase prompt with the media message of the first subset included in the first feed, wherein interaction with the item purchase prompt via the first mobile application enables presentation of information to initiate purchase of an item.”**

Fosnacht discloses several examples of “**an item purchase prompt**,” available through the media page provided during presentation of the media item, that enables presentation of information to initiate purchase of an item. For example,

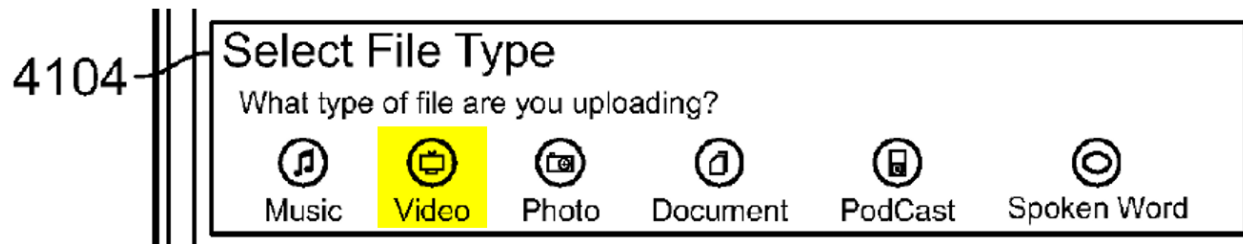
the media page of Figure 7 provides an item purchase prompt to purchase an item, *e.g.*, a full content item. More specifically, the media page in Figure 7 shows full content section **708** that “includes thumbnail image **740**, price display **742**, purchase button **744**, information display **746**, and related links section **748**. Thumbnail image **740** is an image associated with the full content media item, Such as a CD cover image, a graphic, a logo, or any other image.” (Fosnacht, ¶0131.) “Full content section **708** also includes price display **742** that displays the cost to purchase the full content media item. If the user desires to purchase the media item at that price (or less, such as if the user has a coupon), the user selects purchase button **744**. Web site **300** then guides the user through the purchase of the media item, or allows the user to save the media item in the shopping cart for later purchase.” (Fosnacht, ¶0132.) The same feature is also available through the media page of Figure 8. (Fosnacht, *e.g.*, Fig. 8, ¶¶0138, 0142 (full content section **808**).) As explained for 1[d] above, it would have been obvious based on Fosnacht alone or in view of Kirkpatrick that presentation of and interaction with the user interface features of Fosnacht (which would include item purchase options) would be via “**the first mobile application.**”

As a separate and independent basis for satisfying the claim, the media page of Figure 21 includes a Related Media section **2114** that shows media items related to the media item being displayed through the media page (“**the media message of**

the first subset included in the first feed”). (Fosnacht, Fig. 21, ¶0243.) “A related media item can be related for various reasons, such as by having been uploaded by the same user or publisher, by sharing a common category or tag(s), or by sharing common keywords or other metadata.” (Fosnacht, ¶0231.) Fosnacht further confirms that some of the related media items “may be publisher content that is available for purchase.” (Fosnacht, ¶0243.) A media item in media section **2114**, therefore, provides “**an item purchase prompt**,” that the user can interact with to “**enable[] presentation of information to initiate purchase of an item.**” For example, when the user selects the media item in media section **2114**, they can be brought to the media page of that item where purchasing information is presented. (Fosnacht, ¶0135 (“If desired, the user can click on the title of the media item to be brought to a separate media page where additional information, a snack version of the media item, and purchasing information is presented.”).)

7. Claim 7: “The method of claim 1, wherein the media message of the first subset included in the first feed is a video that includes one or more of an attached image or attached audio that is not native to the video.”

As explained for claim 1, Fosnacht makes clear that a media item “**included in the first feed**” could be a video. For example, Fosnacht discloses the ability of a user to upload a video media item (“**media message**”). (Fosnacht, ¶0239.) Figure 41 of Fosnacht illustrates:



(Fosnacht, Fig. 41 (excerpt, highlighting added).)

Fosnacht further discloses and renders obvious that the video media message may include “**one or more of an attached image or attached audio that is not native to the image or video,**” captured by the mobile application via the camera on the mobile device. The claim thus only requires either an attached image or an attached audio, and Fosnacht discloses at least the former. More specifically, Fosnacht discloses the ability to attach a “thumbnail” image to a previously-uploaded media item, and the thumbnail can be any arbitrary image chosen by the uploader. (Fosnacht, ¶¶0117, 0369.) For example, Figure 45 shows a thumbnail definition page **4500** to associate any thumbnail image with a previously uploaded media item by simply uploading an image file to the server. (Fosnacht, Fig. 45, ¶0369.) Under this mapping, therefore, the “**media message included in the first feed**” would have included not just the previously-uploaded video media item, but also the thumbnail image received by the server. Petitioner notes that, although Figure 45 shows an option available to publishers, and although not required by the claim (as both publishers and users can upload media items as noted for limitation 1[a]), it would have been obvious to provide the same thumbnail selection options

for non-publisher users to give those users more customization over presentation of media items they upload. (EX1002, ¶134.)

It would also have been apparent and obvious for the uploaded thumbnail image in Fosnacht to have been “**not native to the... video**,” because nothing in Fosnacht requires that the uploaded thumbnail image have been captured by the camera on the mobile device – or even by a camera at all. Fosnacht confirms that, in one embodiment, “[t]he thumbnail image is, for example, a single frame from a video clip, a cover image from a media case (such as a CD or DVD cover image), an image from the publisher, or any other image associated with the media.” (Fosnacht, ¶0117; *see also id.*, ¶0131.) It would have been obvious for a CD or DVD cover image, a publisher image, or “any other image,” as described in Fosnacht, to have included images that were not captured by a camera on the mobile device, such as an image created by drawing, rendering, or other generation of the image on the computer that was not part of the video captured using the camera on the mobile device. (EX1002, ¶¶135-136.) It would also have been obvious for the thumbnail image, even if captured by the application via the camera on the mobile device, to not have been part of the uploaded video media item, and thus, “**not native**” to the video captured by the camera. (EX1022, ¶136.)

8. **Claim 8: “The method of claim 1, wherein respective ones of the plurality of media messages are associated with a scheduled airtime, and wherein the respective ones of the plurality of media messages are not selected for the first subset until the scheduled airtime or thereafter.”**

As explained for limitation 1[a], Figure 42 of Fosnacht shows publication date selection section **4204** that “allows the publisher to identify a starting date and an ending date for the media item to be available through the web site.” (Fosnacht, ¶0360.) The start time for each media message discloses “**a scheduled airtime**” associated with the media item, “**wherein the respective ones of the plurality of media messages are not selected for the first subset until the scheduled airtime or thereafter,**” because the starting and ending time information provided for a media item will prevent that media item from being presented before the specified starting time, or after the specified ending time.

As another separate and independent example of a feature of Fosnacht that discloses claim 8, Petitioner explained for claim 1 that one example of “**a feed**” in Fosnacht is ticker zone **1304** shown in Figure 13 and further shown in Figure 14. As explained, the ticker zone as shown in Figure 14 includes “display region **1404** [that] typically provides a graphical image and brief description of the associated media content. In other possible embodiments an audio or video clip is provided.” (Fosnacht, ¶0177.) “In some embodiments display region **1404** scrolls through a plurality of featured content. For example, the first content is first featured in display

region **1404** for a period of time. After the period of time has elapsed, the second content is next displayed. The process continues until all featured content has been displayed.” (Fosnacht, ¶0178.) Fosnacht further discloses that the media items in the ticker zone are associated with “**scheduled airtimes**,” *i.e.*, starting dates specifying when the media items can start appearing in ticker zone **1304**. This is in addition to the starting and ending dates specified above for claim 1, as the starting dates here relate specifically to scheduling when the media item may appear in the ticker zone. (Fosnacht, ¶0182.) It would have also been obvious that the start and ending information for an item in ticker zone **1304** would have specified *in addition to* the starting and ending date information described above for claim 1, which specifies more generally when the media item will be available on the web site (including in ticker zone **1304** and elsewhere). (EX1002, ¶136; Fosnacht, ¶0360.)

9. Claim 9: “The method of claim 8, wherein the one or more applications executable on the corresponding one or more computing devices enable purchase of the scheduled **airtime.”**

Fosnacht further discloses that, in one embodiment, users may pay to post messages. (Fosnacht, ¶0228.) Accordingly, it would have been obvious that when a user pays to post a media item and specifies a scheduled airtime for that media time, as described in claim 8, the user has made a “**purchase of the scheduled **airtime****,” as claimed, because the user has paid for the distribution of the media item during the specified starting and ending times. (EX1002, ¶139.) The purchase is

also enabled by the “**one or more applications executable on the corresponding one or more computing devices**,” as claimed, because the user would have made this purchase using the web browser application of its user device. (Fosnacht, ¶0075.) Petitioner has also provided a separate **Ground 3** for this claim that adds Clancy, to provide another basis for obviousness of claim 9 in the event it is argued that Fosnacht and Kirkpatrick are somehow insufficient.

10. Claim 10: “The method of claim 1, wherein the first mobile application is further configured to switch a presentation of the first feed to a presentation of the second feed in response to a user interaction with the first mobile application.”

Fosnacht discloses an interactive user interface that allows the user to navigate from one feed to another. For example, the “Featured,” “Most Popular” and “Newest” feeds in Figure 4 described in connection with 1[c], are activated by user-selectable tabs through the user interface. (Fosnacht, Fig. 4, ¶¶0095 (“If the featured tab is selected, welcome page 402 displays a set of featured content.... If the most viewed tab is selected, welcome page 402 displays a set of the most viewed content... If the newest tab is selected, then welcome page 402 displays a set of the content that was most recently added[.]”).) Similarly, the community page and the media browsing pages described above in connection with limitation 1[c] are activated by user-selectable links. (Fosnacht, ¶¶0114 (“The Communities section **514** (also sometimes referred to herein as a group) includes links to the community pages of any communities that the user is a member.”), 0145 (“Media browsing page

902 [Figure 9] is displayed, for example, when a user selects Explore from the quick links bar (e.g., **504** described herein with reference to FIG. 5).”) Fosnacht therefore discloses and renders obvious that the mobile application is configured to “**switch a presentation of the first feed to a presentation of the second feed in response to a user interaction with the first mobile application,**” for example, when the user switches from one feed to another by making the appropriate selections through the user interface. And as explained for 1[d], it would have been obvious that navigation through the user interface of Fosnacht would have taken place in response to user interaction with “**the first mobile application,**” as claimed, based on Fosnacht alone or in view of Kirkpatrick.

11. Independent Claim 11

Claim 11 is a system claim that is substantially the same as claim 1, except that it recites “**one or more servers**” that include “**memory, machine-readable instructions, and one or more processors**” that are configured to execute the instructions to carry out the steps of claim 1. (EX1002, ¶¶141-142.) These additional components are taught by Fosnacht, which discloses web server **102** that includes “a processor and memory, the memory containing computer executable instructions, which when executed by the processor cause the processor to generate web page data and to communicate the web page data across the data communication network” (Fosnacht, ¶0007), and as explained for claim 1, the web page and web

page data in Fosnacht render obvious the steps of claim 1 alone or in combination with Kirkpatrick. (EX1002, ¶142.)

12. Dependent Claims 12-20

Claims 12-20 are substantially similar to claims 2-10, respectively, except that they depend from claim 11 instead of claim 1. They are obvious for the same reasons presented for claims 2-10. (EX1002, ¶143.)

13. Independent Claim 21

Claim 21 is a system claim that is substantially the same as claim 1, except that it recites a “**non-transitory machine-readable storage medium comprising instructions that, when executed, cause one or more processors of one or more servers,**” to carry out the steps of claim 1. (EX1002, ¶¶144-145.) These additional components are taught by Fosnacht, which discloses web server **102** that includes a memory with “computer executable instructions, which when executed by the processor cause the processor to generate web page data and to communicate the web page data across the data communication network” (Fosnacht, ¶0007), and as explained, the web page and web page data in Fosnacht render obvious the steps of claim 1 alone or in combination with Kirkpatrick. (EX1002, ¶142.)

14. Claims 22-30

Claims 22-30 are substantially similar to claims 2-10, respectively, except that they depend from claim 21 instead of claim 1. They are obvious for the same reasons

presented for claims 2-10. (EX1002, ¶143.)

D. Ground 2: Claims 2, 3, 12, 13, 22, and 23 Are Obvious Over Fosnacht in View of Kirkpatrick and Sharma

As explained for **Ground 1**, Fosnacht discloses multiple examples of displaying banner advertisements to users of Fosnacht's media distribution system, and it would have been obvious that clicking on any of these ads would have resulted in presentation of an advertisement. (EX1002, ¶¶127-129.) Petitioner notes that Fosnacht does not provide specific details relating to user interaction with these ads – presumably because this functionality would have been plainly apparent and obvious to a skilled artisan and even laypersons used the Internet. (EX1002, ¶143.) Nevertheless, in the event it is argued that the prior art cited for **Ground 1** is insufficiently detailed to cover the limitations of claims 2, 3, 12, 13, 22, and 23, **Ground 2** confirms that these claims are obvious in further view of Sharma.

Sharma discloses a technique for allowing an advertiser to deliver relevant ads to users based on search query information provided by a user. (Sharma, Abstract, ¶0009.) Sharma confirms that, as was well-known, websites could present one or more Internet advertisements that, when clicked-on (for example through hypertext links), would cause a user's web browser to present a web page associated with the advertiser. (Sharma, ¶0049.) This advertiser page is frequently called a "landing" page. (Sharma, ¶¶0049, 0059; EX1002, ¶149.)

Sharma confirms this basic and well-known sequence. For example, Figure

6 shows an exemplary web page **600** that, in one embodiment, shows search results **610** and one or more ads **620**. (Sharma, ¶0067.)

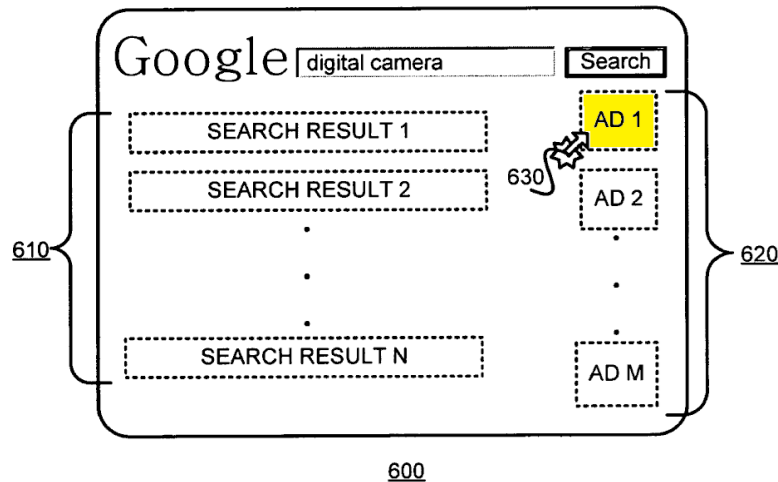
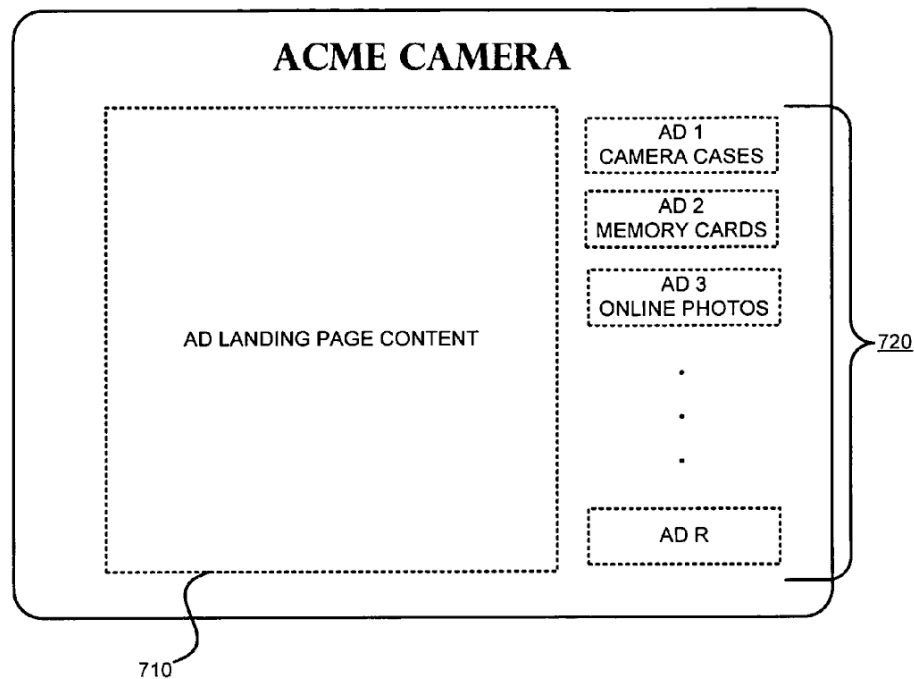


FIGURE 6

(Sharma, Fig. 6 (highlighting added).) Sharma explains that ads may be, for example, “so-called banner ads,” among other types. (Sharma, ¶0033.) As shown in Figure 6 in highlighting, “[a] user has selected, as indicated by click **630**, ad **1**.” (Sharma, ¶0067.) “Ad **1** includes a reference (e.g., a hypertext link) to a landing Web page.” (Sharma, ¶0068.) Accordingly, clicking on ad **630** brings up the landing shown in Figure 7:



700
FIGURE 7

(Sharma, Fig. 7.) “FIG. 7 illustrates an exemplary landing Web page **700**. It **700** includes content **710** and additional ads **720**.” (Sharma, ¶0068.) Figure 7 thus confirms that a landing page can present one or more additional advertisements. Sharma therefore discloses that interaction with an advertising prompt (such as a banner advertisement) “**initiates presentation of additional advertising content,**” as recited in claims 2, 12, and 22, and “**initiates presentation of a webpage,**” *i.e.*, an advertiser landing page, as recited in claims 3, 13, and 23.

Rationale and Motivation to Combine (Fosnacht and Kirkpatrick, with Sharma): It would have been obvious to combine the prior art for **Ground 1** (Fosnacht and Kirkpatrick), with Sharma. The combination would have predictably resulted in the media distribution system according to the Fosnacht-Kirkpatrick

combination, further adapted such that when a user clicked-on any of the banner advertisements shown in Figures, 9, 10, and 21 of Fosnacht (as described for **Ground 1**), the user would have been taken to a landing page in which additional advertisements would have been presented, as described in Sharma. (EX1002, ¶152.) Under the proposed combination, therefore, “**interaction with the advertisement prompt associated with the media message of the first subset included in the first feed,**” initiates “**presentation of additional advertising content,**” and “**presentation of a webpage,**” as recited in claims 2, 3, 12, 13, 22, and 23. Under the combination with Kirkpatrick, as explained for **Ground 1**, the interaction with the advertising prompt and the presentation of the webpage would have been by the first mobile application as recited in claims 3, 13, and 23. (*Id.*) And based on Fosnacht alone or in view of Kirkpatrick, as explained for **Ground 1**, interaction with the advertising prompt and presentation of an advertisement would have occurred “**via the mobile application.**”

As explained for **Ground 1**, Fosnacht and Kirkpatrick are analogous references. (EX1002, ¶113.) Sharma is also an analogous reference in the field of systems and processes for distributing content to devices over the Internet, and would have been reasonably pertinent to problems facing the inventor. (EX1002, ¶153.) For example, Sharma provides a description of the basic functioning of banner advertisements, which is a feature of the alleged invention and reflected in

the challenged claims for this ground. ('591, 5:20-23.)

A person of ordinary skill in the art would have been motivated to combine. As noted for **Ground 1**, Fosnacht already discloses banner advertisements and specifically discloses they can be clicked on to obtain more information (such as clicking “MORE INFO” for advertisement **2116** in Figure 21 of Fosnacht). Fosnacht does not disclose the mechanics of what occurs when a user clicks on a banner advertisement, but the basic functionality of Internet banner advertisements and landing pages was well-understood as described in Sharma. (EX1002, ¶154.) Sharma thus picks up where Fosnacht leaves off by further showing that activating any of the advertisement banners in Fosnacht would have caused presentation of an advertisement, such as the additional advertisements shown in Figure 7 of Sharma.

A person of ordinary skill in the art would have been amply motivated to adapt the system of Fosnacht to provide this functionality in order to provide additional opportunities to provide further promotional material and thus raise additional revenue from user interactions with the banner ads presented through the Fosnacht media distribution system. (EX1002, ¶154.) Finally, a person of ordinary skill in the art would have had at least a reasonable expectation of success, as the combination would have required nothing more than use of conventional techniques for presenting banner advertisements. (EX1002, ¶155.)

E. Ground 3: Claims 9, 19, and 29 Are Obvious Over Fosnacht in View of Kirkpatrick and Clancy

As explained for **Ground 1** and in the analysis of claim 8 above (from which claim 9 depends), Fosnacht discloses multiple examples of enabling the user to associate a “**scheduled airtime**” with a media item, such as a start time and end time that governs when the media item can be selected for inclusion in the first subset of the first feed. Petitioner has cited Clancy for the further feature of claims 9, 19, and 29, which recites the ability to “**enable purchase of the scheduled airtime.**”

Clancy purports to disclose techniques for “displaying relevant advertisements to members of targeted online groups (or online community groups), whose group members share common interests.” (Clancy, 1:44-47.) In one embodiment, an advertiser uploads an advertisement and then selects the on-line groups for presentation of the advertisement. (Clancy, Fig. 3F, 9:42-56.) Figure 3F shows a user interface for allowing the advertiser to place an advertisement:

Advertiser – A
Placing Requirements 145

Selected Online Groups for Ad	Total Members
1. ABC EE Alumni:	300
2. DEF EE Alumni:	400
3. GHI EE Alumni:	350

Available Advertisement(s) 146

Ad	Description	Type
☒ Ad – 1	EE Jobs in Bay Area, CA	Link
☐ Ad – 2	EE Jobs in Los Angeles	Link
☐ Ad – 3	EE Jobs in Boston Area	Link
⋮		

Duration 147

☒ 17 Days **Start Date** **End Date**

☐ 14 Days MM/DD/YY MM/DD/YY

148 149

150

View Ratings and Comments of Advertisements 148

151

FIG. 3F

(Clancy, Fig. 3F.)

Figure 3F above shows window **124** for placing advertisements that displays, among other things, field **144** showing selected online groups for placement, field **146** showing advertisements uploaded by the advertiser, and field **147** showing the duration, including the start date **148** and end date **149** for the advertisement. (Clancy, 9:13-21, 9:41-56.) The key feature in Figure 3F, for our purposes here, is the duration field **147**. “In the example shown in FIG. 3F, Advertiser-A chooses to run ‘Ad-1’ for 7 days. The start date and end date could be entered by typing in

month(s), date(s) and year(s), such as Jul. 1, 2007 as start end and Jul. 7, 2007 as end date.” (Clancy, 9:42-46.) Figure 3F also shows a Check Price button **150** to check the cost of running the ad to the selected groups for the specified duration. (Clancy, 9:47-61.) The price of the ad is affected by several factors, including “the duration of running the advertisement,” among others. (Clancy, 9:56-61; *see also id.*, 7:66-8:1.) After checking the price, the advertiser can press the Pay button **151** and arrange for online payment. (Clancy, 9:66-10:5.) Clancy therefore discloses enabling purchase of scheduled airtime for an advertisement.

Although Clancy focuses on placement of advertisements, the system can also be used to distribute other types of content. Clancy explains that advertisements may be provided as part of user-generated messages. (Clancy, Fig. 7, 15:1-9.) Moreover, the system in Clancy “can also be used by group members to send paid greetings to other group members,” such as get well soon, birthday, and other types of greetings. (Clancy, 15:10-22.) “The concept of this invention,” according to Clancy, “can be applied to any on-line communities or groups with dedicated web communication spaces for members.” (Clancy, 15:23-25.)

Rationale and Motivation to Combine (Fosnacht and Kirkpatrick, with Clancy): It would have been obvious to combine the prior art for **Ground 1** (Fosnacht and Kirkpatrick) with Clancy, resulting in the media distribution system according to the Fosnacht-Kirkpatrick combination, with the further ability to enable

the user or publisher to purchase airtime for a media item. Under the proposed combination, therefore, when the user or publisher specifies the starting and ending times for a media item, they would be able to purchase the ability to show the media item during that airtime based on the teachings of Clancy. Clancy therefore renders obvious the ability to purchase scheduled airtime, as recited in claims 9, 19, and 29, because under the proposed combination, the media distribution system of Fosnacht would have enabled payment for placement of a media item during the user- or publisher-specified time period. (EX1002, ¶162.)

As explained for **Ground 1**, Fosnacht and Kirkpatrick are analogous references. (EX1002, ¶113.) Clancy is also an analogous reference in the field of systems and processes for distributing content to devices over the Internet, and would have been reasonably pertinent to problems facing the inventor. (EX1002, ¶163.) For example, Clancy describes how to enable purchase a particular duration for a content item (such as an advertisement or greeting), which is a feature of the alleged invention and reflected in the challenged claims for this ground. ('591, Figs. 4-9.) The disclosures in Clancy would have been reasonably pertinent to the inventor in understanding how to design a system that allows users to purchase airtime for a media message. (EX1002, ¶163.)

A person of ordinary skill in the art would have been motivated to combine. (EX1002, ¶114.) As noted for **Ground 1**, Fosnacht already discloses the ability to

specify when a media item will be available through publication selection section **4204** in Figure 42. (Fosnacht, Fig. 42, ¶360.) Fosnacht also discloses an embodiment in which a user may be charged a fee to post content. (Fosnacht, ¶0228.) Clancy thus picks up where Fosnacht leaves off by confirming that it would have been obvious to enable the user or publisher in Fosnacht to pay a fee to have its media item presented during the specified airtime. A skilled artisan would have had a compelling motivation to combine in order to raise revenue for media distribution system. For example, it would also have been obvious that particular time periods might have been more desirable to users or publishers who are seeking to distribute their media items (for example, periods of increased traffic or during a particular event). Enabling the media distribution system to charge a fee for presentation of media items during particular time periods would have allowed users and publishers to increase the likelihood that their media items are presented during desired periods. (EX1002, ¶164.) This would have been particularly attractive to users or publishers whose media items are associated with items available for purchase, as described for claim 6 above. (Fosnacht, ¶¶128-132, Fig. 7.) As noted previously, moreover, Clancy makes clear it is not limited to advertisements and makes clear that its techniques can be applied to group messages, greetings, video and audio messages, and other examples of the type of user- or publisher- generated content disclosed in Fosnacht. (Clancy, 15:1-22.) Finally, a person of ordinary skill

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in the art would have had at least a reasonable expectation of success, as the techniques described in the prior art could have been implemented using conventional programming techniques. (EX1002, ¶165.)

VII. CONCLUSION

Petitioner respectfully requests IPR institution.

Dated: October 31, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH WORD COUNT

Pursuant to 37 C.F.R. § 42.24(d), I certify that this petition complies with the type-volume limits of 37 C.F.R. § 42.24(a)(1)(i) because it contains 13,953 words, according to the word-processing system used to prepare this petition, excluding the parts of this petition that are exempted by 37 C.F.R. § 42.24(a) (including the table of contents, a table of authorities, mandatory notices, a certificate of service or this certificate word count, appendix of exhibits, and claim listings).

DATED: October 31, 2025

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Sections 42.6 and 42.105, that a complete copy of the attached **PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 12,118,591 B1**, including all exhibits (**Nos. 1001-1015**) and related documents, are being served via Federal Express on the 31st day of October, 2025, the same day as the filing of the above-identified document in the United States Patent and Trademark Office/Patent Trial and Appeal Board, upon Patent Owner by serving the correspondence address of record with the USPTO as follows:

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And, via Federal Express upon counsel of record for Patent Owner in the litigation pending before the U.S. District Court for the Western District of Washington entitled *Weple IP Holdings LLC v. Meta Platforms, Inc.*, Case No. 2:24-cv-01316-JLR (W.D. Wash.) as follows:

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