

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIANT TECHNOLOGY LLC,
MEDIAOCEAN LLC, and
APPLOVIN CORP.,
Petitioners

v.

INTENT IQ, LLC,
Patent Owner

Case No. IPR2026-00330
Patent 11,949,962

PATENT OWNER'S PRELIMINARY RESPONSE TO THE PETITION

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I. Introduction

The Petition fails for two independent reasons.

First, the Petition fails on the merits. Its sole ground rests on the assertion that because Shkedi-728 lists personally identifiable information (“PII”) matching as an option, a POSITA would have selected a PII-matching technique disclosed in another reference to create an association Shkedi-728 teaches is preferably made *without* PII, while simultaneously using Shkedi-728’s *preferred* non-PII technique for the other claimed association. The Federal Circuit has rejected precisely this reasoning, in holding that two alternatives being “disclosed in a prior art reference” does not thereby “satisf[y] the motivation to combine analysis.” *Virtek Vision Int’l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882, 888 (Fed. Cir. 2024). The Petition never supplies the missing *reason* to implement the combination as proposed, and that failure is dispositive as to all challenged claims.

Second, the Petition fails to identify all real parties in interest, as 35 U.S.C. § 312(a)(2) requires. Publicly available evidence shows that two private equity firms, CVC Capital Partners and TA Associates, fund, direct, and stand to benefit from this proceeding through their control of Petitioner Mediaocean. The Petition names neither.

Accordingly, institution should be denied.

II. The Petition fails to establish a reasonable likelihood that Petitioners would prevail on any challenged claim.

Institution may be granted only if the Petition demonstrates “a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged.” 35 U.S.C. § 314(a); 37 C.F.R. § 42.108(c). That burden rests with Petitioners and cannot be carried by conclusory assertions of motivation. *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380–81 (Fed. Cir. 2016). The Petition presents a single ground—obviousness of claims 1–34 over Shkedi-728 in view of Chamberlain—and every challenged claim depends on the same defective motivation showing for independent claims 1 and 22. That defect is dispositive of the entire Petition.

Claims 1 and 22 require, *inter alia*, two distinct associations of devices. First, they require “an association between a first online device (OD1) and a set-top box (STB),” indicia of which is stored by matching “personally identifiable information (PII) about a user of the OD1” and “personally identifiable information about a user of the STB.” Ex. 1001, limitation [1.a], [22.a]. Second, they require a separate association between OD2 and OD1 based on both devices’ use of a “common proxy IP address,” as determined by a computer system located outside the LAN that address defines. Ex. 1001, limitations [1.b.ii]–[1.b.iii], [22.b.ii]–[22.b.iii]. Thus, the claims require that a single system uses PII for one association (STB-to-OD1) and uses a shared IP address—an association the references expressly describe as “not

PII” (Ex. 1005, [0043]; *see also id.*, [0044], [0049])—for an association between two other devices (OD2-to-OD1). The Petition does not provide any motivation for combining Shkedi-728 and Chamberlain to arrive at such a solution, particularly given that Shkedi-728 teaches that use of PII for the STB-to-OD1 association is disfavored.

Shkedi-906, which is incorporated by reference into Shkedi-728, explicitly teaches that “[p]referably neither the user profile information nor the electronic association of online access and set-top box IP addresses includes personally identifiable information.” Ex. 1005, Abstract, [0033], [0040]. This is because in a system that does not use PII for matching, “[p]ersonal privacy is maintained.” *Id.*, [0044]. Shkedi-728 is to the same effect: it describes prior-art schemes in which “PII has typically been **required** to make the connection between the different media,” and contrasts “[o]ther proposed schemes [that] would enable targeting of television ads based on observed online behavior **without** requiring the use of PII.” Ex. 1004, [0035]. Shkedi-728’s own embodiments follow the non-PII path: “[t]he association of the user’s online access IP address and the user’s STB identifier at CAS 40 typically constitutes non-PII.” Ex. 1004, [0064]; *see also id.* at [0067] (“All that is required is an association between the STB identifier related to an earlier delivered television ad and the online access IP address of subsequent online activity... (with, or perhaps **preferably without**, relying on PII)”; Pet. 41 (noting that avoiding PII

“enhanc[es] privacy consistent with the goals of Shkedi-728”). The only preference stated anywhere in the references thus runs *against* the use of PII.

The Petition’s contrary theory rests almost entirely on Shkedi-728’s statement that the association between the online access IP address and the STB identifier “can be established ... by: use of PII or non-PII as needed, desired, or permitted; ... cooperation between the ISP, TVP, and/or CAS ..., with or without using PII; and so on.” Pet. 11–12 (quoting Ex. 1004, [0053]); *see also* Ex. 1004, [0037] (“with or without using PII”). But an open-ended menu of possibilities is not a reason to select a specific option, much less the one option the prior art singles out as disfavored. In *Virtek Vision Int’l ULC v. Assembly Guidance Sys., Inc.*, 97 F.4th 882, 888 (Fed. Cir. 2024), the Federal Circuit rejected precisely this reasoning: the petitioner there argued that because two alternatives “were disclosed in a prior art reference and were therefore ‘known,’ that satisfies the motivation to combine analysis,” and the Court held that this “is an error as a matter of law. It does not suffice to simply be known. A reason for combining must exist.” *Id.* Nor can Petitioners invoke *KSR*’s “known options” rationale, which applies only where “a design need or market pressure to solve a problem” drives selection among a finite number of identified, predictable solutions—the Petition identifies neither. *Id.* (quoting *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007)). And here, unlike in *Virtek*, the references do supply directional guidance—all of it pointing away from the Petition’s combination.

Nor does the Petition explain why, if a POSITA were *already* designing a system that used PII (and thus had privacy drawbacks) for the STB-to-OD1, a POSITA would choose to use IP-address-association rather than PII matching for the OD1-to-OD2 association (which, unlike the STB-to-OD1 association, Shkedi-728 does *not* teach has the same privacy benefits from non-use of PII). Given that Shkedi-728 and its incorporated material make clear that an association involving an STB is preferably accomplished *without* using PII and has no such teaching for associations not involving an STB, it is entirely unclear why a POSITA implementing Shkedi-728 would have thought to use PII matching for the STB association while *simultaneously* using IP address matching for the non-STB association. The Petition never answers this question.

Indeed, in alleging that limitation [1.b.ii] is satisfied (pertaining to the association of the OD2 and the OD1 based on “a common proxy IP address”), the relevant disclosures that the Petition relies on for the common proxy IP address is “a common IP address on a LAN that is co-located with the STB.” Pet. 26. In other words, the STB shares a common IP address (by virtue of being on the same LAN) as both OD2 and OD1. In such a configuration, the Petition offers no reason why a POSITA would have viewed PII-matching as needed or desirable for the STB-to-OD1 association, given that the association can readily be determined *without* the

use of PII via the common IP address technique (which would be more privacy-friendly).

It certainly cannot be that the common IP address technique would be unsuitable or undesirable for the Petition's combination, because that technique (as opposed to the PII-matching technique the Petition's theory relies upon for the STB-to-OD1 association) is the *same* non-PII technique the Petition contends would be used for the OD2-to-OD1 association. And despite that technique being available under the Petition's proposed configuration, the Petition's theory is that a POSITA would have avoided it and instead relied on what Shkedi-728 and Shkedi-906 disclose as a less desirable PII-based association for the STB-to-OD1 association in the Chamberlain combination. The Petition nowhere explains why a POSITA would have been *motivated* to pursue such a disjointed combination of elements.

In sum, the Petition's theory is that because Shkedi-728 (the primary reference) teaches that a PII solution is *possible*, a POSITA would actively seek out ways to implement PII solutions for the STB-to-OD1 association that Shkedi-728 teaches would preferably *not* depend on PII, and which would not need to depend on PII given the availability of a common IP address association technique under the Petition's proposed combination (and which common IP address technique is *already* used for the OD2-to-OD1 association under that combination). This is the type of hindsight-based reasoning that the Federal Circuit cautions against: the fact

that a POSITA *could have* assembled aspects of the prior art together to arrive at the challenged claims is not the same as a showing that a POSITA *would have been motivated* to do so, and the Petition’s allegations (at most) go to the former inquiry. *See Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (“[O]bviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.”) (emphasis in original); *Virtek*, 97 F.4th at 888 (“It does not suffice to simply be known. A reason for combining must exist.”).

III. The Petition violates the real party-in-interest requirement.

A petition for inter partes review “may be considered only if...the petition identifies all real parties in interest.” 35 U.S.C. § 312(a)(2). On October 28, 2025, the Director provided a “Precedential designation of *Corning Optical Communications RF, LLC v. PPC Broadband Inc.*, IPR2014-00440, Paper 68 (PTAB Aug. 18, 2015) (except for § II.E.1)” (hereinafter “*Corning Designation Memo*”) (available at https://www.uspto.gov/sites/default/files/documents/Precedential_designation_of_Corning_Optical_Communications_RF_LC_v._PPC_Broadband_Inc_Memo_-_Dated_10_28_25.pdf). As the *Corning Designation Memo* makes clear, the “integrity of PTAB proceedings depends on knowing who is behind a petition—who funds it, directs it, and/or benefits from it.” *Id.* at 4. “Any opacity in that chain of control invites exploitation...and serves only

to undermine public confidence in the integrity of the patent system.” *Id.* The Director thereby “restor[ed] the Office’s pre-*SharkNinja* practice of requiring petitioners to identify the real parties in interest (‘RPIs’) to their petitions before institution,” reaffirming that “§ 312(a) must be satisfied before the Director can institute trial.” *Id.* at 1.

Under *Corning*, “[a] common consideration is whether the non-party exercised or could have exercised control over a party’s participation in a proceeding,” and other considerations include whether a non-party “funds and directs and controls” the petition, and the non-party’s relationship with the petitioner. *Corning Optical Commc’ns RF, LLC v. PPC Broadband Inc.*, IPR2014-00440, Paper 68 at 14 (PTAB Aug. 18, 2015) (hereinafter, “*Corning*”). The inquiry “demands a flexible approach that takes into account both equitable and practical considerations, with an eye toward determining whether the non-party is a clear beneficiary that has a preexisting, established relationship with the petitioner.” *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336, 1351 (Fed. Cir. 2018). And a patent owner need only “produce some evidence that tends to show that a particular third party should be named a real party in interest”; the “petitioner bears the ultimate burden of persuasion” on its identification of RPIs. *Worlds Inc. v. Bungie, Inc.*, 903 F.3d 1237, 1242–44 (Fed. Cir. 2018). The publicly available evidence here more than clears that threshold.

The Petition does not satisfy the real party in interest requirement because, even from publicly available information, it is apparent that two private equity investors, CVC Capital Partners and TA Associates, have a significant equity stake in (and operating control over) Mediaocean. *See* Ex. 2006, 1 (“Mediaocean will be switching private equity portfolios, moving from Vista Equity to CVC Capital Partners and TA Associates....”). While the exact amount of ownership “was not disclosed” (*id.*), the article describing the investment makes clear that the investors are part of, or closely affiliated with, Mediaocean’s “leadership team,” evidencing the ability to participate in and control the instant IPR proceedings. *See id.* at 5 (“I think you also have an ***incredibly hungry and confident leadership team*** at Mediaocean.... ***We like the aggregation of teams that just came together with CVC and TA.***”); *see also id.* at 6 (“CVC has the mindset that products need to lead the market”); Ex. 2007 at 3 (“Managing Partner at CVC” stating: “We are committed to building a dynamic customer-facing organization and we strongly believe helping agencies and marketers navigate the increasingly complex digital advertising landscape is critical to success. We look forward to supporting Mediaocean in working to achieve this.”); *id.* at 4 (noting that TA Associates “help[s] management teams build lasting value”); Ex. 2008 at 1 (“CVC’s Europe / Americas private equity strategy is focused on ***control or co-control investments*** in market-leading businesses across these regions.”); Ex. 2009 at 1 (TA Associates stating: “We are a

proven growth investor *and collaborative partner....*”). This is not mere “association with another party in an endeavor unrelated to the IPR proceeding,” which *Corning* holds insufficient. *Corning* at 14. CVC by its own description takes “control or co-control” positions in its portfolio companies (Ex. 2008 at 1), CVC and TA fund and direct Mediaocean’s business, and both stand as clear beneficiaries of a proceeding aimed at eliminating a patent asserted against that business. Every touchstone the Director identified—funding, direction, and benefit—is present.

While Patent Owner does not have full insight into the relationship between Mediaocean, CVC Capital Partners, and TA Associates, the publicly available information strongly suggests that one or both companies “exercised or could have exercised control over [Mediaocean’s] participation in [this] proceeding,” and should have been named as real parties in interest. *See Corning* at 14 (quoting Trial Practice Guide, 77 Fed. Reg. at 48,761); *see also id.* at 16, 19 (finding unnamed parent and affiliate entities to be RPIs on this basis). Thus, on the publicly available facts, institution should be denied for failure to identify all real parties in interest.

If institution is granted, Patent Owner reserves the right to seek discovery into the real party-in-interest status as to CVC Capital Partners, TA Associates, and any other potential real parties-in-interest.

IV. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that institution

be denied.

Date: July 8, 2026

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CERTIFICATION REGARDING WORD COUNT

Pursuant to 37 C.F.R. §42.24(d), Patent Owner certifies that there are 2,348 words in the paper excluding the portions exempted under 37 C.F.R. §42.24(a)(1).

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the above document was served on July 8, 2026 by filing this document through the Patent Trial and Appeal Case Tracking System (PTACTS) as well as delivering a copy via electronic mail upon the following attorneys of record for Petitioner:

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