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Statement of Defense (REDACTED)

In the matter of

Nagravision Sàrl

- Claimant -

(Meissner Bolte Patentanwälte Rechtsanwälte Partnerschaft mbB, München)

Case No.: UPC-CFI-0001506/2025

versus

Please see the table on p. 4 et seq. for the **Formal Requirements**.

1. Pinterest Germany GmbH

2. Pinterest Europe Ltd.

3. Pinterest Inc.

- Defendants -

for alleged patent infringement (EP 3 965 466)

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A.
No Standing to Sue

The Claimant lacks standing to bring the present action as it has not proven ownership of the Patent in Suit (both the European Patent with unitary effect and the Irish part of EP 3 965 466).

1. The Claimant cannot rely solely on the entry in the EPO Register, which does not in itself establish standing but merely has indicative value as to the ownership of the patent (Rule 8(5)(a) RoP, LD Hamburg, decision of 26 August 2025, case no. UPC_CFI_54/2023 – *Avago v. Tesla*, p. 16). The same applies to the Irish part of the Patent in Suit (Sections 47 and 84(4) of the Irish Patents Act 1992 (as amended)) for which the Claimant has not even provided evidence of its registration in the register.

2. The Claimant merely asserts that the Patent in suit was transferred to it by way of an agreement dated 4 November 2025, without producing any such agreement. The Defendants contest that the Patent in Suit and any of the asserted claims were validly transferred to the Claimant and that any corresponding agreement exists.

B.
Claim Construction

The Claimant applies an incorrect claim construction, especially with respect to feature 1.1 (receiving a selection during playback) as well as features 1.3 and 1.4 (determination based on content type). With respect to feature 1.1, Claimant wants to construe the claim to also encompass the appearance of a (random) new content (caused by scrolling) (**sub II. 1.**) and to extend the "playback" of a piece of content to a point in time where the piece of content is no longer visible to the user (**sub II. 2.**). For its infringement allegations with respect to features 1.3 and 1.4, Claimant refers to information about the codec used (e.g., HEVC, AVC) instead of the content type (e.g., HLS, DASH) as defined in the specification (**sub III. 1.**). According to feature 1.4, the content type is the key factor in determining whether at least a portion of the playback pipeline is preserved (**sub III. 2.**).

I.
The Person Skilled in the Art

The relevant person skilled in the art is a software engineer with a degree in computer science who has several years of professional experience in the field of media streaming technology. The definition of the Claimant (SoC, para. 31) lacks that specific professional experience.

II.
Feature 1.1

1.1 receiving (306) a selection of a new piece of content for playback during playback of a first piece of content;

Feature 1.1 requires that the digital receiver receives a selection of a new piece of content for playback during playback of a first piece of content.

1. Selection of a New Piece of Content

Under the Claimant's interpretation, feature 1.1 would also cover situations in which the user has not selected any specific new video, but an arbitrary video starts playing. This interpretation is incorrect, as the feature requires that the user consciously selects a specific video. The description supports this understanding.

a) The Claimant alleges that "receiving a selection" according to feature 1.1 would also encompass "switching" between the playback of pieces of content by scrolling or swiping on a list with content, thereby causing a new video to appear on the screen which is then automatically played back (and not only "switching" from the piece of content currently being played to a new piece of content by clicking on a new video or using a control to specifically select the next video).

b) Contrary to the Claimant's interpretation, the Patent in Suit expressly distinguishes between scrolling and selecting, stating that the user may scroll through, for example, an EPG (Electronic Programming Guide) or may be viewing a catalog or watchlist, and then selects a (specific) new piece of content for viewing (PS, para. [0023], highlighting added):

> **[0023]** In operation 306, the player 202 receives an indication to switch to a new piece of content for playback. The indication may be received from a control device of the user (e.g., a remote controller). In some embodiments, the user may scroll through an EPG or be viewing a catalog or watchlist, and selects a new piece of content for viewing.

c) A "selection" according to feature 1.1 means that a conscious user decision and a corresponding action initiate the switching to a specific new content and not the appearance of a (random) new content the user may not even have been aware of. Even the

Claimant agrees that the selection has to be one of the user (SoC, para. 39: "*Die Auswahl stellt somit eine Benutzer-Auswahl dar.*"). It is precisely such a selection of new content by the user that the digital receiver of the claim cannot anticipate (unlike a"selection" by the digital receiver itself) that creates the issues the claimed solution is supposed to address (for those, *cf. also*, SoC, paras. 24 et seqq.). The digital receiver may be able to prefetch metadata for content that *may* be played back next based on predictions or just because the content is contained in a list (PS, paras. [0006], [0018]), but it cannot know what content the user will actually select in advance because it is the user who chooses what to play next (PS, para. [0007]). The Patent in Suit aims to avoid playback delays in exactly that situation, *i.e.* when switching pieces of content based on such unpredictable user selections (PS, paras. [0006] et seq.). If the digital receiver already knows which piece of content will be played next because it is just the next piece of content on a scrollable list, the playback pipeline for the new video could also be constructed in advance to avoid any switching delays, for example.

(1) Paragraph [0018] of the Patent in Suit describes how the cache manager of the preferred embodiment manages the prefetching of metadata for content in case a user navigates up or down (*i.e.*, scrolls) a linear list of channels or programs (*e.g.*, an EPG). The cache manager may consider pieces of content in the viewable portion (*i.e.*, the displayed pieces) of the list as content of interest and will thus prefetch the respective metadata (which includes content type and codec information) for the content of interest and store it into the cache. However, this itself does not constitute a selection of a specific content as claimed. It only allows direct access to the metadata in the cache if the user subsequently selects

content for which the metadata is already prefetched, which should further reduce latency (highlighting added):

> **[0018]** The cache manager 206 manages the prefetching of metadata for content that may potentially be selected for playback. In some embodiments, the cache manager 206 predicts content the user may be interested in viewing. For example, a user may be navigating a linear list of channels or programs (e.g., an electronic programming guide; "EPG") in a particular direction (e.g., up or down). In this embodiment, the cache manager 206 predicts a next set of content based on the direction of navigation on the linear list. In another example, the user may be viewing a video-on-demand (VoD) catalog or a watchlist of a user. If the user requests information or hovers over a selection for a piece of content, the cache manager 206 uses this as prediction that the piece of content is of interest to the user. Alternatively, the cache manager may consider all (or some) pieces of content in viewable portion of the catalog or watchlist as content of interest. In any of these cases, the cache manager 206 prefetches the metadata for the content of interest, and stores the prefetched data to the cache 208. The metadata may comprise, for example, one or more uniform resource locators (URLs) where the chunks of content are available, URLs for different bit rates, license data (e.g., where to obtain a license from), and codec information. The codec information will be used by the player 202 to determine whether to preserve at least a portion of the pipeline 204, as will be discussed further below. If the user subsequently selects content for which the metadata is already prefetched, then the metadata can be accessed from the cache 208 instead of having to be retrieved over the network 106 from the CDN server 108 or the content provider 110 after selection. This will assist in the reduction of latency in playback.

(2) Thus, the description confirms that only navigating through a list of programs (*i.e.*, scrolling) is not a selection as claimed by feature 1.1. In line with the description, feature 1.1 requires a further, subsequent action by the user actively choosing (*i.e.*, a conscious decision) a specific content to be played back.

2. During Playback of a First Piece of Content

Feature 1.1 further requires that the selection of a new piece of content is received during playback of a first piece of content, which means it must happen when the digital receiver is still playing back the first piece of content to the user.

a) The Claimant argues that the feature does not require that the playback of the first piece is perceptible by a user (*i.e.* shown on the display) when the selection is received. It would rather suffice that resources reused later for the new piece of content are at least partially "occupied" or "used" (SoC, para. 40). To support its claim construction, the Claimant refers to paragraph [0015] of the specification, which states that "*the digital receiver* […] *preserves a bitrate used for playback (e.g., streaming or downloading)*" (highlighting added):

> **[0015]** FIG. 2 is a block diagram illustrating an example embodiment of components within the digital receiver 102 in accordance with an example embodiment. In example embodiments, the digital receiver 102 manages access to content streamed over the network 106. In particular, the digital receiver 102 prefetches metadata, preserves a bitrate used for playback (e.g., streaming or downloading) of a previous piece of content when initiating the playback of a new piece of content, and preserves at least a portion of a content delivery pipeline. To enable these operations, the digital receiver 102 comprises a player 202, a content delivery pipeline 204 (also referred to as "pipeline"), a cache manager 206, and a cache 208, all of which may be configured to communicate with each other (e.g., over a bus, shared memory, or a switch). The digital receiver 102 comprises other components (not shown) that are not pertinent to operations of example embodiments.

b) This argument based on paragraph [0015] is flawed not only because it concerns an embodiment that is not reflected in the claim, but also because the skilled person understands that the content can be played back as it is being downloaded and that this is what this sentence of paragraph [0015] means. This form of real-time viewing during a download is called a "progressive" download and was common general knowledge of the skilled person at the priority date of the Patent in Suit, as evidenced, for example,

by the Wikipedia entry for "progressive download" as it appeared on 7 October 2016, which we submit as

- Exhibit QE 1 -.

c) That "playback" means that the user must be able to see what is being played back – in line with the common understanding of the term – also follows from paragraph [0021], according to which "*a first piece of content is caused to be played by the viewing device*" which is used for presenting the content to the user (highlighting added):

> **[0021]** In operation 302, a first piece of content is caused to be played by the viewing device 104. In example embodiments, the player 202 constructs the pipeline 204 for obtaining and processing the content data for the first piece of content. In particular, the player 202 acquires the source element 212, the demux 214, the audio decoder 216, and the video decoder 218 to form the pipeline 204. The data content is processed by the pipeline 204 and presented on the viewing device 104.

Paragraph [0017] also confirms that playback comprises the entire playback pipeline including the presentation of the output of the pipeline to the user (PS, col. 6, ll. 30-32):

> The results from the audio and video decoders 216 and 218 are output (e.g., transmitted) to the viewing device 104 for presentation to the user.

Only a partial "occupation" or "use" of a playback pipeline (whatever that may mean in technical terms) by a piece of content without the piece of content being displayed to the user is insufficient.

d) The Claimant itself emphasizes that it is one of the objects of the Patent in Suit to maintain the image quality between the playback of the first piece of content and the playback of the new piece of content (SoC, paras. 25 et seq.). Image quality only plays a role if the image is actually perceptible for the user. According to the description that

is precisely what happens from the "*very beginning of playback*" (PS, para. [0024], highlighting added):

> ment of picture quality. However, example embodiments that use the previous derived heuristic bitrate maintain the same level of image quality as that of the previous playback from a very beginning of playback for the new content.

If playback actually began before displaying the piece of content to the user (as argued by the Claimant), the image quality would not play a role at its very beginning. Thus, paragraph [0024] only makes sense when playback as claimed is correctly understood as resulting in the display of the piece of content to the user in a perceptible way.

III.
Features 1.3 and 1.4

1.3 determining (404) whether the new piece of content is of a same content type as the first piece of content; and

1.4 based on the new piece of content being the same content type as the first piece of content, determining (408, 410, 412, 414, 416) whether to preserve at least a portion of a playback pipeline used to play back the first piece of content,

Feature 1.3 requires the digital receiver to determine whether the new piece of content is of a same content type as the first piece of content. According to feature 1.4, the digital receiver determines whether to preserve at least a portion of a playback pipeline used to play the first piece of content on the basis of the new piece of content being the same content type as the first piece of content, *i.e.* on the basis of the result of the determination according to feature 1.3.

Two elements of these features are critical for the present case: (1) The content type as the key criterion for the first determination and (2) the second determination based on the result of the first determination that the content type of the new piece of content and the first piece of content is the same.

1. Content Type

The content type in features 1.3 and 1.4 means the streaming protocol used for delivery of the respective piece of content.

a) While it is correct when the Claimant initially states that the content type refers to the streaming/delivery format used (SoC, paras. 46, 48), it then confuses the content type and codec information, however, and incorrectly wants both to be covered by features

1.3 and 1.4 (SoC, para. 47), even though the claim only mentions the content type. The Claimant's argument that feature 1.3 must be interpreted functionally in such a way that the data used just has to make it possible to determine whether the two pieces of content are of the same type (SoC, para. 49) lacks any substance and is circular.

b) In fact, the Patent in Suit distinguishes the content type from other information about the content such as the codec information:

(1) The differentiation between content type and codec information follows already from dependent claims 2 and 4, which add a further determination based on the codec information to the claimed method. According to claim 2, the codec information indicates *types of decoders* needed for the new piece of content, instead of using the content types (emphasis added):

> "*detecting (408) codec information for the new piece of content,* ***the codec information indicating types of decoders needed for the new piece of content****;*
>
> *and determining whether the audio decoder and the video decoder in the playback pipeline are of the types indicated by the codec information.*"

The subsequent determination step based on these claims only relates to the question whether to preserve the decoders used to decode the first piece of content, not the question whether to preserve the pipeline as such addressed by claim 1, which is based on the content type. This shows that both content type and codec information do not only have their own distinct technical meaning, but also a distinct technical function.

(2) That the content type means the streaming protocol used for a particular piece of content follows from paragraphs [0016], [0027], [0028], and [0029], which refer to the streaming formats Dynamic Adaptive Streaming over HTTP (DASH) and HTTP Live Streaming (HLS) as content types relevant for the

determination whether to maintain (parts of) the playback pipeline (highlighting added):

> **[0016]** The player 202 is configured to manage the pipeline 204. In example embodiments, the player 204 instantiates (e.g., constructs) the pipeline 204 when a first piece of content is selected for display. A different pipeline may be constructed for each type of content. For example, the player 202 constructs a HTTP Live Streaming (HLS) pipeline for HLS content and constructs a Dynamic Adaptive Streaming over HTTP (DASH) pipeline for DASH content. The player 204 also decides whether to maintain at least a portion of the pipeline 204 or construct a new pipeline when a switch in content occurs (e.g., channel change or selection of new content for viewing). An example method for managing the preservation of the pipeline is discussed in further detail in connection with FIG. 4 below.
>
> **[0027]** In operation 402, in response to receiving the indication to switch playback to new content, the cache manager 206 accesses the prefetched metadata stored in the cache 208 for the new content. The prefetched metadata for the new content may comprise one or more URLs where the new content is available, one or more URLs for different bit rates associated with the new content, license data for the new content, and codec information for the new content. The prefetched metadata may also indicate whether the new content is of a same type as the first piece of content. For example, the first piece of content and the new content may both be in a HTTP Live Streaming (HLS) format or both be in a Dynamic Adaptive Streaming over HTTP (DASH) format.
>
> **[0028]** In operation 404, the player 202 determines whether the first piece of content and the new content are of the same content type. If the first piece of content and the new content are not of the same type (e.g., first piece of content is in HLS format and the new content is in DASH format), then the resources of the pipeline 204 (e.g., the source element 212, the demux 214, the audio decoder 216, and the video decoder 218) are released in operation 406. Releasing all the resources of the pipeline 204 essentially deconstructs the pipeline 204. The player 202 them creates a new pipeline by acquiring other resources that are applicable to the content type of the new content.
>
> **[0029]** If in operation 404 the player 202 determines that the first piece of content and the new content are of the same content type (e.g., both are HLS format), then in operation 408, codec information is detected for the new content. In example embodiments, the player 202 examines the prefetched metadata for the new content for the codec information. The codec information indicates types of decoders needed for the new content.

(3) In contrast, paragraph [0029] describes at its end that codec information indicates the types of decoders needed for the new content, in line with claim 2:

> **[0029]** If in operation 404 the player 202 determines that the first piece of content and the new content are of the same content type (e.g., both are HLS format), then in operation 408, codec information is detected for the new content. In example embodiments, the player 202 examines the prefetched metadata for the new content for the codec information. The codec information indicates types of decoders needed for the new content.

(4) Both types of information serve different technical functions, in particular with respect to the determinations (i) if a portion of a playback pipeline is to be preserved and (ii) how much of a playback pipeline can be preserved. Paragraphs [0026] et seqq. and Figure 4 disclose the only embodiment for preserving a content delivery pipeline where the decision whether to preserve the pipeline is based on the content type and the further decision which portions of the pipeline are to be preserved is based on the codec information.

(a) As paragraph [0029] and Figure 4 show, both parameters can be contained in the content metadata and influence the playback pipeline for a particular piece of content, but in different ways (highlighting added):

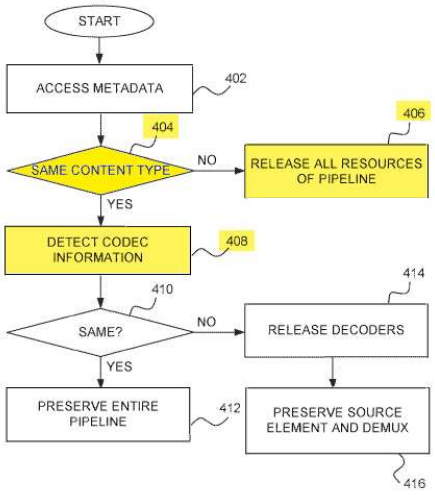

FIG. 4

(b) The differentiation between content type and codec information is decisive for the different determinations made according to Figure 4:

(i) The decision whether or not to release all resources of the playback pipeline (steps 404 and 406 in Figure 4) is based on the content type in the sense of the streaming format only (as feature 1.3 requires and paragraph [0028] explains). If the content type is not the same, all resources are released (there is no subsequent decision in that case). The reason for that is that other elements of the playback pipeline depend on the streaming format used (in particular the source element, which is specific for the streaming format and responsible for downloading the content data and bitrate adaptation, PS, para. [0017]), while different streaming protocols can be used with the same codecs.

(ii) The codec information therefore only informs the subsequent decision about *how much* of the pipeline can be reused, *i.e.* the entire pipeline or just the source element and demultiplexer ("*demux*") but not the decoders (steps 408 and 410 in Figure 4; PS, paras. [0030] et seq., highlighting added):

[0029] If in operation 404 the player 202 determines that the first piece of content and the new content are of the same content type (e.g., both are HLS format), then in operation 408, codec information is detected for the new content. In example embodiments, the player 202 examines the prefetched metadata for the new content for the codec information. The codec information indicates types of decoders needed for the new content.
[0030] In operation 410, a determination is made by the player 202 as to whether the types of decoders needed for the new content is the same as the decoders currently in the pipeline 204 for the first piece of content. If the types of decoders needed is the same, then in operation 412 the entire pipeline 204 is preserved. In other words, the resources of the pipeline 204 are maintained and continued to be used to playback the new content.
[0031] However, if in operation 410 the player 202 determines that the new content needs different decoders, then in operation 414, the decoders (e.g., the audio decoder 216 and the video decoder 208) are released. Subsequently in operation 416, a remaining portion of the pipeline 204 (e.g., the source element 212 and the demux 214) are preserved or maintained. In these embodiments, the player 202 acquires a new set of decoders (e.g., a new audio decoder and a new video decoder) applicable to the new content, and adds the new set of decoders to the preserved portion of the pipeline 204.

This subsequent determination about which portions of the pipeline to preserve based on codec information depends on the first determination based on content type. It therefore cannot and does not replace the first determination as it merely pertains to a subset of the pipeline (audio and video decoder of features 1.5.3 and 1.5.4, but not the source element and demultiplexer of features 1.5.1 and 1.5.2). Unlike the determination based on the content type, the determination based on codec information only cannot inform a decision about the release of the source element and demultiplexer, which are specific to the content type, but not necessarily the codec used.

(c) This confirms that there is a clear technical and functional distinction between content type and codec information. Again, that makes sense because the codec information can be the same even if the content type is different because the same codecs can be used both for DASH and HLS (AVC and HEVC, for example, are commonly used with both streaming formats). The same source element, however, cannot be used for both DASH and HLS because it is specific to the particular streaming protocol used.

2. The Determination of Feature 1.4 Depends on the Determination of Feature 1.3

It is, therefore, essential for the determination about the preservation of at least a portion of a playback pipeline required by feature 1.4 that the digital receiver first determines according to feature 1.3 that the new piece of content and the first piece of content are of the same content type. This determination made in feature 1.3 mandatorily forms the basis for the determination in feature 1.4 (*i.e.*, the determination cannot be done independently of the determination in feature 1.3). The digital receiver only preserves at least a portion of the playback pipeline used for the first piece of content if both pieces of content are of the same content type (*i.e.*, they are delivered via the same streaming protocol so that the same source element can be used and potentially also the same decoder(s)).

(3) No Realization of Features 1.3 and 1.5

From the above follows that there is no determination by the Android app whether the first and the new piece of content are of the same content type (regardless of how content type is interpreted), as required by feature 1.3. As a consequence, there can also be no determination according to feature 1.4 based on such a determination.

[redacted] As such, features 1.3 and 1.4 are not realized in this step, either.

2. Video Pins with Autoplay in the Feed (Scrolling)

The asserted infringement scenario of scrolling through the feed and autoplaying videos does not provide for a selection during playback of a first piece of content according to feature 1.1. The Claimant's infringement allegations regarding feature 1.1 are based on its flawed claim interpretation. When applying the correct claim construction as shown above (*cf.*, supra B. II.), the Claimant's factual allegations are not suitable to show a realization of feature 1.1.

a) No Selection of a New Piece of Content

There is no selection of a new piece of content in the scrolling scenario. The Claimant argues that scrolling through the feed would constitute an implicit selection of the new video (SoC, para. 180). However, as shown above (*cf.*, supra B. II. 1.), a selection as claimed by feature 1.1 requires a conscious decision by the user to view a specific new

piece of content. That new videos come into the user's view on the display when scrolling through the feed (SoC, para. 179) does not constitute such a conscious choice of a specific video and is not a selection as claimed by feature 1.1.

b) No Selection during Playback

The Claimant has failed to show that such a selection occurs during playback of a first piece of content even if scrolling through the feed could be seen as a claimed selection (*quod non*). As shown above (*cf.*, supra B. II. 2.), playback requires that a content is played in a way perceptible to the user and thus, cannot happen if the video is not or no longer shown on the display of the viewing device.

The Claimant relies on the video provided as Exhibit MB 19 in this context and refers to the time interval 00:06-00:07. However, no running video is displayed on the screen in this part of the video, but only still images. Actually, the user in the video has to scroll for two more times until a running video appears on the screen (which happens at 00:11; the first video disappeared from the screen at 00:08).

The next video (*i.e.*, the third video that can be seen starting from 00:06 of MB 19) is not selected during playback of the second video. The second video disappears from the screen at 00:15. At this point, the first user-initiated scroll does not cause another running video to be displayed. Only the next user-initiated scroll causes a video to be played at 00:17.

Thus, no new piece of content is selected during playback of the first piece of content.

3. Transitioning to Full-Screen Mode upon User "Click"

The Claimant has not shown that the Android app realizes feature 1.1 with respect to the transition to full-screen mode upon user "click" (better: user touch, as it is a touchscreen interface), either.

a) The Claimant attempts to substantiate its infringement allegations by referring to the video with the Pin-ID 897834875752224782 as the new piece of content, which is marked as video [3] in paragraph 277 of the SoC. The video of Exhibit MB 21 at