

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC. AND INSTAGRAM, LLC,
Petitioner,

v.

VOXER IP LLC,
Patent Owner.

IPR2021-00115
Patent 10,142,270 B2

Before LYNNE E. PETTIGREW, MICHELLE N. ANKENBRAND, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

AHMED, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Facebook, Inc. and Instagram LLC (“Petitioner”) requested an *inter partes* review of claims 34, 36–38, 40, 41, 43, 44, 47–49, 51, and 55 (the “challenged claims”) of U.S. Patent No. 10,142,270 B2 (Ex. 1001, “the ’270 patent”). Paper 1 (“Petition” or “Pet.”). Voxer IP LLC (“Patent Owner”) filed a Preliminary Response. Paper 15 (“Prelim. Resp.”).

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless it is determined that there is a reasonable likelihood that the petitioner would prevail with respect to at least one of the claims challenged in the petition. Based on the information presented in the Petition and the supporting evidence, we are not persuaded that there is a reasonable likelihood that Petitioner would prevail with respect to at least one of the remaining challenged claims. Accordingly, we do not institute an *inter partes* review of the challenged claims as set forth in the Petition.

II. BACKGROUND

A. *Related Proceedings*

The parties identify the following related litigation: *Voxer, Inc. and Voxer IP LLC v. Facebook, Inc. and Instagram LLC*, No. 1:20-cv-00655 (W.D. Tex.). Pet. 1; Paper 9, 1. The parties also identify the following related matters: IPR2021-00112 and IPR2021-00113, concerning U.S. Patent No. 10,511,557 B2, and IPR2021-00114 concerning U.S. Patent No. 8,180,030 B2. Pet. 1; Paper 9, 1.

B. *The ’270 Patent (Ex. 1001)*

The ’270 patent, titled “Telecommunication and Multimedia Management Method and Apparatus,” was filed May 2, 2017, and claims the benefit of U.S. Provisional Patent Application Nos. 60/937,552, filed June

28, 2007; and 60/999,619, filed October 19, 2007. Ex. 1001, codes (22), (54), (60), (63).

The '270 patent relates to

a telecommunication and multimedia management method and apparatus that enables users to review the messages of conversations in either a live mode or a time-shifted mode and to transition the conversation back and forth between the two modes, participate in multiple conversations and to archive the messages of conversations for later review or processing.

Id. at 1:28–35. The '270 patent explains that “[u]sers can engage in conversations by sending messages to designated recipients.” *Id.* at 4:15–16. “Users are empowered to conduct communications in either: (i) a near-synchronous or ‘live’ conversation, providing a user experience similar to a standard full duplex phone call; or (ii) in a series of back and forth time-delayed transmissions (i.e., time-shifted mode),” and that “users engaged in a conversation can seamlessly transition from the live mode to the time-shifted mode and back again.” *Id.* at 4:23–29. This “makes it possible for users to engage in multiple conversations, at the same time, by prioritizing and shifting between the two modes for each conversation.” *Id.* at 4:29–32.

The '270 patent further explains that “the conversation consists of a series of discrete recorded messages, which are recorded in a number of locations, which may include the encoding device of the sender, (e.g. a phone or computer), servers on multiple transmission hops across the network, and the receiver's rendering device.” *Id.* at 4:40–45.

Figure 1 of the '270 patent is reproduced below.

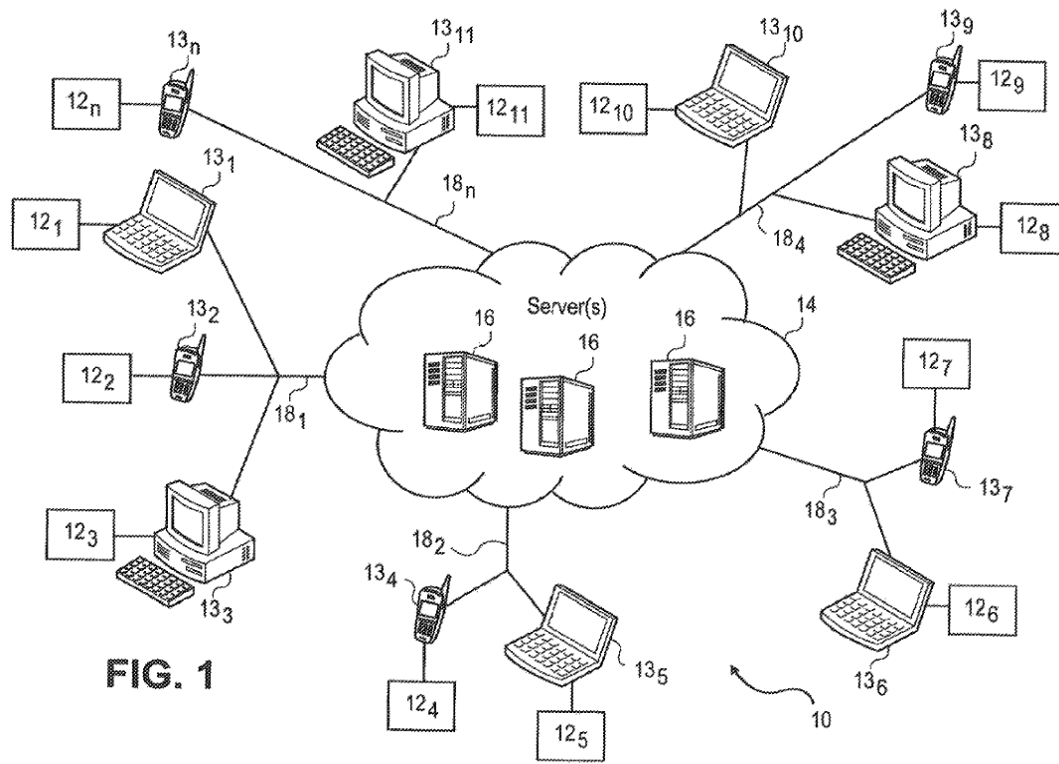


Figure 1 diagrams the system architecture of the '270 patent's communication and media management system. *Id.* at 5:36–37. The '270 patent explains that

system 10 includes a plurality of Clients 12₁ through 12_n running on Devices 13₁ through 13_n respectively. Devices 13 communicate with one another over a communication services network 14, including one or more Servers 16. One or more networks 18₁ through 18_n is provided to couple the plurality of Devices 13₁ through 13_n to the communication services network 14.

Id. at 11:50–58.

When a Client 12 transmits a message, the message contains an identifier associated with the target recipient. In response, the Server 16 finds a delivery route to a [different] Client 12 associated with the intended or targeted recipient. As messages are received, they are stored in the [Persistent Infinite Message Buffer] 85 and transmitted to the next Server 16 (i.e., the net

“hop”) of the network layer 14 along the path to the intended recipient(s), or to the recipient(s) directly depending on the system configuration.

Id. at 22:41–49.

The system further employs adaptive jitter buffers that dynamically change their size to optimize either quality or speed. *Id.* at 9:65–10:8. They can either improve quality by storing data “to allow a reasonably sized buffer of media to arrive” before rendering the media or render it “before all the packets are received, trading off quality for currency.” *Id.* at 10:3–8. The ’270 patent explains that rendering is “[d]elivering a [m]edia stream to a [u]ser in a form suitable for [u]ser consumption (e.g., voice, text, graphic display, video, or a combination thereof).” *Id.* at 9:52–54.

The system permits “enabling users to participate in conversations without waiting for a connection to be established with another participant or the network.” *Id.* at 6:41–43. This “allows users to begin conversations, participate in conversations, and review previously received time-shifted messages of conversations even when there is no network available, when the network is of poor quality, or other participants are unavailable.” *Id.* at 6:43–48.

C. Challenged Claims

Petitioner challenges claims 34, 36–38, 40, 41, 43, 44, 47–49, 51, and 55, of which claims 34 and 55 are independent. Claim 34 is reproduced below.

34. A video communication method, comprising:
[a] receiving an identifier associated with a video communication transmitted by a sending communication device over a network, the identifier identifying a recipient of the video communication;

- [b] ascertaining, in response to receipt of the identifier, a location on the network for a second communication device associated with the recipient and connected to the network;
- [c] receiving the video communication from the sending communication device independently of the location for the second communication device being ascertained;
- [d] storing the video communication; and
- [e] delivering portions of the video communication over the network to the second communication device using the location, the delivery enabling the video communication to be at least partially rendered at the second communication device while the video communication is transmitted by the sending communication device,
- [f] wherein receiving the video communication from the sending communication device occurs without having to first establish an end-to-end connection over the network between the sending and the second communication device.

Ex. 1001, 47:23–47 (Petitioner’s identification of limitations added).

D. The Asserted Grounds

Petitioner asserts the following grounds of unpatentability, relying on the declaration testimony of Dr. Samrat Bhattacharjee (Ex. 1005):

Claim(s) Challenged	35 U.S.C. § ¹	Reference(s)/Basis
34, 36–38, 40, 43, 44, 47, 55	103(a)	Mangal ²
34, 36–38, 40, 41, 43, 44, 47, 49, 51, 55	103(a)	Mangal, Atarius ³
48	103(a)	Mangal, Kalaboukis ⁴
48	103(a)	Mangal, Atarius, Kalaboukis

Pet. 3.

III. ANALYSIS

A. Principles of Law

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics*,

¹ Because the ’270 patent issued from a patent application that claims priority to an application filed before March 16, 2013, patentability is governed by the version of 35 U.S.C. § 103 preceding the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (2011).

² U.S. Patent No. 6,865,398 B2, issued March 8, 2005 (Ex. 1002, “Mangal”).

³ International Patent Application No. WO 2006/121550 A2, published November 16, 2006 (Ex. 1003, “Atarius”).

⁴ U.S. Patent No. 9,762,861 B2, issued September 12, 2017 (Ex. 1004, “Kalaboukis”).

Inc., 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burden of proof in *inter partes* review).

As set forth in 35 U.S.C. § 103(a),

[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when in evidence, objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). An obviousness analysis “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). However, Petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016). Instead, Petitioner must articulate a reason why a person of ordinary skill in the art would have combined the prior art references. *In re NuVasive*, 842 F.3d 1376, 1382 (Fed. Cir. 2016).

B. Level of Ordinary Skill in the Art

We review Petitioner’s asserted obviousness grounds in view of the understanding of a person of ordinary skill in the art at the time of the invention. *Graham*, 383 U.S. at 17.

Petitioner contends that a person of ordinary skill in the art “would have had at least a bachelor’s degree in computer science, computer engineering, or an equivalent degree, and 2-3 years of professional experience with distributed multimedia systems,” and “would have had a working knowledge of computer networking and distributed systems generally, and multimedia communication systems, specifically.” Pet. 4 (citing Ex. 1005 ¶¶ 41–46).

Patent Owner contends that a person of ordinary skill in the art: would have at least (1) a Bachelor’s degree in electrical or computer engineering or a related course of study with at least two years of work experience in industry in the areas of computer networking, multimedia processing, or a related area of work or (2) a Master’s degree in electrical or computer engineering or a related course of study, with at least one year of experience in industry in the areas of computer networking, multimedia processing, or a related area of work.

Prelim. Resp. 10.

Patent Owner contends that its “description of the level of ordinary skill in the art is essentially the same as that of the Petitioner.” *Id.* We view Patent Owner’s proposal as consistent with Petitioner’s proposal, and the parties therefore agree as to the substance of the proposed level of ordinary skill in the art. We adopt Petitioner’s proposed level of ordinary skill as set forth by its declarant Dr. Bhattacharjee because it is consistent with the problems identified and solutions provided in the ’270 patent and the prior art. We also agree with the parties that more work experience could compensate for less formal education, and vice versa. *Id.*; Pet. 4.

C. Claim Construction

In this *inter partes* review, claims are construed using the same claim construction standard that would be used to construe the claims in a civil

action under 35 U.S.C. § 282(b). *See* 37 C.F.R. § 42.100(b) (2020). The claim construction standard includes construing claims in accordance with the ordinary and customary meaning of such claims as understood by one of ordinary skill in the art at the time of the invention. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc). In construing claims in accordance with their ordinary and customary meaning, we take into account the specification and prosecution history. *Phillips*, 415 F.3d at 1315–17.

The parties contend the challenged claims should be construed according to their “plain meaning.” Pet. 8; Prelim. Resp. 12. Because only those claim terms that are in controversy need to be construed, and only to the extent necessary to resolve the controversy, we do not expressly construe any claim term. *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017).

D. Asserted Obviousness over Mangal

Petitioner contends that claims 34, 36–38, 40, 43, 44, 47, and 55 are unpatentable over Mangal. Pet. 9–47. For the reasons discussed below, we conclude that Petitioner has not demonstrated a reasonable likelihood it would prevail in showing that claims 34, 36–38, 40, 43, 44, 47, and 55 are unpatentable on this asserted ground.

1. Overview Mangal (Ex. 1002)

Mangal is titled, “Method and system for selectively reducing call-setup latency through management of paging frequency and buffering of user speech in a wireless mobile station.” Ex. 1002, code (54). Mangal relates to “initiating real-time media sessions,” and “is particularly useful to reduce latency in the initiation of ‘instant connect’ or ‘push to talk’ (PTT)

sessions between data-capable mobile stations, such as 3G mobile stations.”
Id. at 1:11–16.

Figure 1, reproduced below, is a block diagram illustrating a wireless communication system of Mangal.

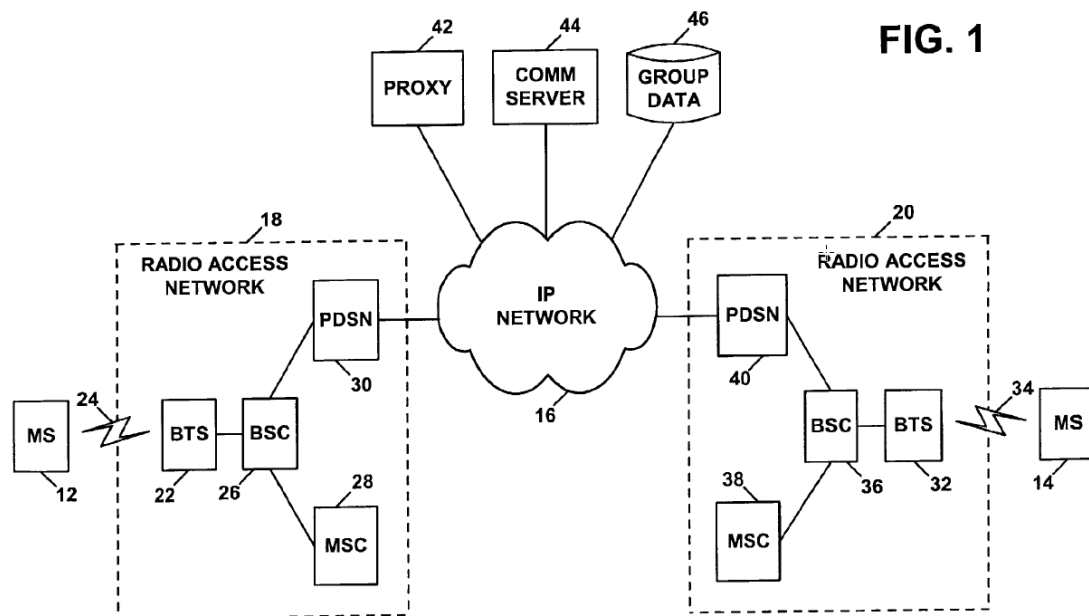


Figure 1 shows wireless communication system 10, including mobile stations 12 and 14, IP network 16, and radio access networks 18 and 20 which include base transceiver stations (BTS) 22 and 32, respectively. *Id.* at 6:9–11, 6:46–62. The mobile stations are linked by a radio access network with the IP network. *Id.*

Mangal explains that when a user invokes a PTT session and begins to speak at one mobile station MS 12, the mobile station buffers the speech while it works with PTT server 44 to establish a PTT session and a traffic channel with destination mobile station MS 14. *Id.* at 12:20–43 (“MS 12 may continue to buffer the user’s speech until a transmission path exists over which MS 12 can send the buffered speech along its way.”) (referring to Figure 5), 7:17–20.

Alternatively, “the buffering process may be carried out at the PTT server instead of or in addition to buffering at MS 12.” *Id.* at 12:59–62.

Figure 6 of Mangal is reproduced below.

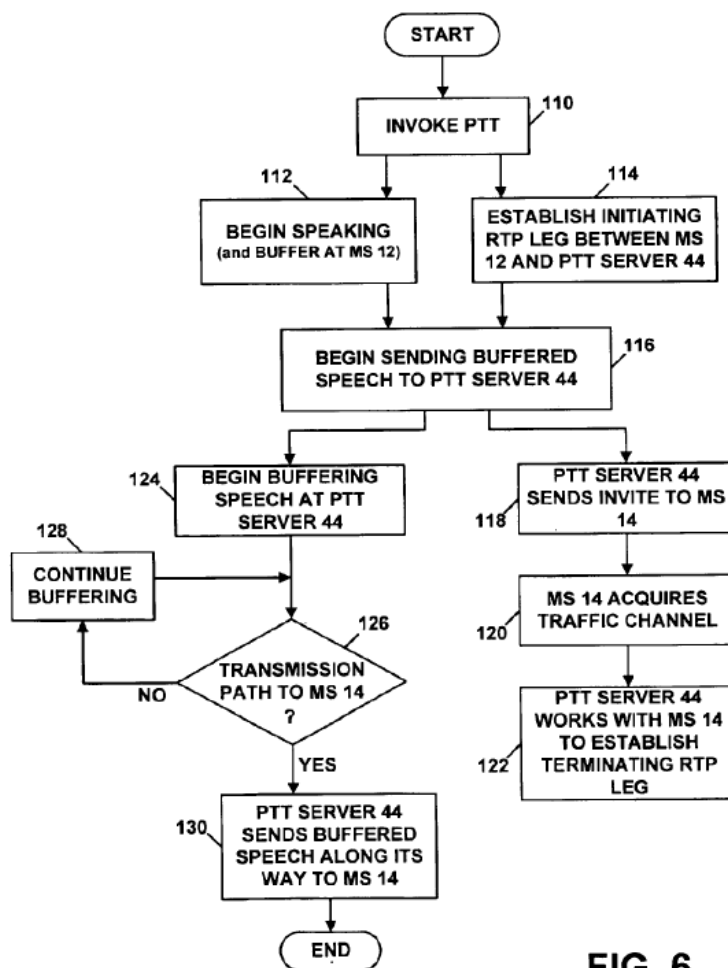


FIG. 6

Figure 6 is a flow chart depicting functions that can be carried out in buffering media at the PTT server. *Id.* at 6:22–24. Mangal explains that “PTT server 44 may buffer the initiating user’s speech signal until a transmission path exists over which PTT server 44 can send the buffered speech signal,” and “in response to establishment of the RTP [Real Time Protocol] leg between the PTT server and MS 14, the PTT server may begin

transmitting the buffered speech signal along its way to MS 14, as shown at block 130.” *Id.* at 13:19–31.

2. *Obviousness of Claims 34, 36–38, 40, 43, 44, 47, and 55*

Patent Owner argues that Mangal fails to teach or suggest limitation 34[e] of independent claim 34 and, for the same reasons, limitation 55[e] of independent claim 55.⁵ Prelim. Resp. 29–32. We, therefore, begin our discussion with the parties’ arguments on limitation 34[e].

- a) *delivering portions of the video communication over the network to the second communication device using the location, the delivery enabling the video communication to be at least partially rendered at the second communication device while the video communication is transmitted by the sending communication device*

(1) *The Petition*

Petitioner asserts that Mangal discloses all aspects of this limitation. Pet. 21 (citing Ex. 1005 ¶¶ 81–89). Petitioner asserts that Mangal’s Figure 6 shows server 44, which may be a *Push to View* server, delivering a communication, which may be *real-time video*, received from sending communication device (MS 12) to a second communication device (MS 14). *Id.* (citing Ex. 1002, 2: 36–54, 14:4–14, Fig. 6; Ex. 1005 ¶ 82). Petitioner further asserts that a person of ordinary skill in the art “would have understood that the second communication device would render (display) the received video communication, among other reasons, because Mangal

⁵ Claim limitation 55[e] recites “delivering portions of the video communication to the one or more second communication devices at their ascertained locations respectively, *the delivery enabling the video communication to be at least partially rendered while the video communication is transmitted by the first communication device.*” Ex. 1001, 50:26–32 (emphasis added); Pet. 47.

discloses establishing ‘real-time communication sessions,’ and real-time video communications are intended to be rendered in real-time.” *Id.* at 23–24 (citing Ex. 1001, 9:52–54; Ex. 1002, code (57), 9:7–11, 2:51–54, 8:6–8; Ex. 1005 ¶¶ 85, 86).

Petitioner also asserts that because Mangal discloses the sending device transmitting RTP packets comprising a video communication as the communication is being created, it also teaches RTP packets comprising a portion of the video communication may be received and rendered at the second communication device as the sender is continuing to transmit the video communication. *Id.* at 24 (citing Ex. 1002, 2:36–46, 11:64–12:13, 12:65–13:38; Ex. 1005 ¶¶ 51–53, 61, 68, 87). Petitioner cites to Mangal’s Figure 6 as disclosing packets progressively transmitted in real-time to the second communication device such that rendering may occur as the sending communication device is transmitting the video communication. *Id.* at 24–25 (citing Ex. 1002, 12:9–13, 13:19–38, Figs. 4, 6; Ex. 1005 ¶ 88).

Petitioner further asserts that given Mangal’s objective of minimizing latency, a person of ordinary skill in the art would have appreciated that the second communication device would commonly render portions of the real-time video communication before the sender’s transmission was complete. *Id.* at 25 (citing Ex. 1005 ¶ 89). Petitioner asserts that Mangal’s system allows for providing a five-second time delay between when the sender begins to create media and when the second communication device begins to receive the media, and if a video communication were to last more than five seconds, rendering would occur while the video communication is transmitted by the sending communication device. *Id.* (citing Ex. 1002, 4:51–55, 5:11–19, 14:14–65, Fig. 7; Ex. 1005 ¶ 89).

(2) Patent Owner's Preliminary Response

In its Preliminary Response, Patent Owner asserts that Mangal fails to disclose simultaneous rendering and transmission as claimed. Prelim. Resp. 29–30. Patent Owner asserts that Mangal is directed almost exclusively to “push to talk” (PTT) voice communication and Mangal’s disclosure of video is limited to a single paragraph noting that video may also be buffered, and disclosure that Mangal’s mobile device could include a video camera and a video display. *Id.* at 30 (citing Ex. 1002, 1:13–16, 2:36–42, 2:51–54, 14:4–13). For instance, Patent Owner argues, there is simply no disclosure in Mangal that video data could be sent in a format that allows for a partial rendering or of any application-layer network protocol that could carry video data. *Id.* at 30–31. Patent Owner asserts that Petitioner’s arguments based on Mangal’s teachings of SIP (Session Initiation Protocol) and RTP, which Mangal uses exclusively for voice communications, fail to demonstrate that Mangal teaches or suggests the use of these protocols with video, which is “an entirely different media type with its own particular constraints and requirements.” *Id.* at 31–32 (citing Pet. 9–12, 16–20).

Moreover, Patent Owner asserts, “there is simply no statement in Mangal that video may be rendered as it is transmitted,” and Mangal’s disclosure does not enable even delivering the video to a recipient device, let alone simultaneously rendering that video on the recipient device. *Id.* at 32 (citing *In re Kumar*, 418 F.3d 1361, 1368–69 (Fed. Cir. 2005)).

(3) Analysis

On the record before us, we are not persuaded that Petitioner has shown sufficiently that Mangal teaches or suggests “delivering portions of the video communication over the network to the second communication

device” and “enabling the video communication to be at least partially rendered at the second communication device while the video communication is transmitted by the sending communication device,” both of which the language of claim 34 requires. For the claimed delivery of video communications, Petitioner relies on Mangal’s mention of a “Push to View (PTV) server” and the fact that Mangal’s mobile stations may include a camera and video display. Pet. 21 (citing Ex. 1002, 2:36–54, 14:4–14; Ex-1005 ¶ 82). Although Mangal mentions these features, Mangal does not specifically disclose, as Petitioner suggests, real-time video communications between MS 12 and MS 14. *Id.*; Ex. 1005 ¶ 82.

We agree with Patent Owner that Mangal is directed to audio chat applications, and more specifically to reducing call setup latency in push-to-talk (PTT) communications. *See* Ex. 1002, 1:13–16 (“The invention is particularly useful to reduce latency in the initiation of ‘instant connect’ or ‘push to talk’ (PTT) sessions between data-capable mobile stations, such as 3G mobile stations for instance.”), 5:51–52 (“Ideally, a *PTT communication system* should simulate instant *2-way radio* communication.”), code (54) (“Method and system for selectively reducing call-setup latency through management of paging frequency and *buffering of user speech* in a wireless mobile station”) (emphasis added). There is no basis in Mangal to conclude that its system would support instant connect video sessions between mobile devices in the same manner as push to talk sessions. Mangal’s mention of a Push to View server in passing is nothing more than speculative. *See id.* at 14:10–11 (“*perhaps* a Push to View (PTV) server”) (emphasis added). Petitioner offers no support that such a server or a push to view protocol existed at time of the ’270 patent’s invention—Dr. Bhattacharjee’s

declaration is noticeably silent on this point. *See* 1005 ¶ 82. Likewise, when viewed in context of its entire disclosure, we are not persuaded that Mangal’s discussion of *real time* media/communications suggests that Mangal’s system could support transmission of *live video* messages between mobile stations over a network. *See* Pet. 9, 21, 23–24. On this record, Petitioner has not shown persuasively that Mangal’s disclosure is sufficient to teach or suggest video communications, as claimed.

Moreover, we agree with Patent Owner that Mangal fails to disclose enabling video communication to be *partially rendered at the second communication device* while the video communication is transmitted by the sending communication device. For the claimed simultaneous rendering and transmission of the video communication, Petitioner relies on Mangal’s disclosure of its *sending* device transmitting RTP packets comprising a video communication as the communication is being created. Pet. 24 (citing Ex. 1002, 2:36–46, 11:64–12:1; Ex. 1005 ¶¶ 51–53, 61, 68, 87). In view of that disclosure, Petitioner concludes that these same RTP packets may be received and rendered at the second communication device as the sender is continuing to transmit them. *Id.* (citing Ex. 1002, 11:64–12:13, 12:65–13:38; Ex. 1005 ¶ 87). We find no support in Mangal for Petitioner’s conclusion. For example, the Figure 6 embodiment that Petitioner relies on (*id.* at 24–25) merely discloses that “in response to establishment of the RTP leg between the PTT server and MS 14, the PTT server *may begin* transmitting the buffered speech signal along its way to MS 14, as shown at block 130.” Ex. 1002, 13:27–31 (emphasis added); *id.* at Fig. 6 (reproduced above, depicting a flow chart that ends at block 130). Mangal says nothing about the manner in which that speech signal is rendered at MS 14.

Petitioner further argues that given Mangal’s objective of minimizing call setup latency, a person of ordinary skill in the art would have appreciated that the recipient device would commonly render portions of the video before the sender’s transmission was complete. *Id.* at 25 (citing Ex. 1002, 4:51–55, 5:11–19, 14:14–65, Fig. 7; Ex. 1005 ¶ 89). Although we agree with Petitioner on Mangal’s stated goal, Mangal’s system seeks to achieve that goal by allowing for buffering of the speech signal *before* it is transmitted to the recipient mobile station. Ex. 1002, 12:32–34, 12:59–62. We are therefore not persuaded that an ordinarily skilled artisan would have understood Mangal’s teaching as Petitioner proposes when Mangal is silent about rendering of the received speech signal at the recipient mobile station.

For at least these reasons, based on the record before us, Petitioner has not shown sufficiently that Mangal teaches or suggests “delivering portions of the video communication over the network to the second communication device using the location, the delivery enabling the video communication to be at least partially rendered at the second communication device while the video communication is transmitted by the sending communication device,” as recited in claim 34.

As discussed above, independent claim 55 recites limitation 55[e] similar to limitation 34[e], requiring both the delivery of *video* communications, as well as *simultaneous* rendering and transmission of the video communication. Ex. 1001, 50:26–32. Petitioner relies on the same analysis presented for claim limitation 34[e]. Pet. 47. Further, challenged claims 36–38, 40, 43, 44, and 47 depend from claim 34.

Therefore, we conclude the information presented does not demonstrate a reasonable likelihood that Petitioner would prevail in

establishing that claims 34, 36–38, 40, 43, 44, 47, and 55 of the '270 patent are unpatentable under 35 U.S.C. § 103(a) for obviousness over Mangal.

E. Remaining Obviousness Grounds

Petitioner challenges claims 34, 36–38, 40, 41, 43, 44, 47, 49, 51, and 55 by adding the teachings of Atarius to the teachings of Mangal discussed above, and challenges claim 48 by adding the teachings of Kalaboukis to the teachings of Mangal discussed above as well as to the combination of Mangal and Atarius. Pet. 48–71. Petitioner relies on Atarius for teaching the “storing” limitation of independent claims 34 and 55, as well as for teaching limitations of dependent claims 41, 49, and 51. *Id.* at 48–64. For disputed limitations 34[e] and 55[e] of independent claims 34 and 55, Petitioner relies solely on the analysis presented in Ground 1, based on the teachings of Mangal alone. *Id.* at 55, 64. Similarly, Petitioner relies on Kalaboukis only for teaching limitations of dependent claim 48, not for teaching the subject matter of independent claims 34 and 55. *Id.* at 65–71. Thus, for the same reasons discussed above, the information presented does not demonstrate a reasonable likelihood that Petitioner would prevail in showing that claims 34, 36–38, 40, 41, 43, 44, 47–49, 51, and 55 are unpatentable as obvious over the asserted combinations of references.

IV. CONCLUSION

After considering the parties’ evidence and arguments, we determine that the information presented does not show a reasonable likelihood that Petitioner would prevail in establishing that at least one of claims 34, 36–38, 40, 41, 43, 44, 47–49, 51, and 55 of the '270 patent is unpatentable on any ground asserted in the Petition.

V. ORDER

Accordingly, it is

ORDERED that the Petition is *denied*; and

FURTHER ORDERED that no *inter partes* review is instituted.

IPR2021-00115
Patent 10,142,270 B2

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