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Paper 14
Entered: May 7, 2021

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.

IPR2021-00113
Patent 10,511,557 B2

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

PETTIGREW, *Administrative Patent Judge*.

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

I. INTRODUCTION

Facebook, Inc. and Instagram, LLC (collectively, "Petitioner") filed a Petition for *inter partes* review of claims 45, 46, 51, 54, 57, and 58 of U.S. Patent No. 10,511,557 B2 (Ex. 1101, "the '557 patent"). Paper 1 ("Pet."). Voxer IP LLC ("Patent Owner") filed a Preliminary Response. Paper 13 ("Prelim. Resp.").

Under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a), we have authority to institute an *inter partes* review if "the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). After considering the parties' briefing and the evidence of record, we conclude the information presented does not show there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one of claims 45, 46, 51, 54, 57, and 58 of the '557 patent. Accordingly, we do not institute an *inter partes* review.

II. BACKGROUND

A. Related Matters

The parties identify the following district court proceeding related to the '557 patent: *Voxer, Inc. v. Facebook, Inc.*, No. 1:20-cv-00655 (W.D. Tex.). Pet. 1; Paper 7, 1 (Patent Owner's Mandatory Notices). The parties also identify the following matters pending before the Board involving the '557 patent and related patents: IPR2021-00112 (challenging different claims of the '557 patent), IPR2021-00114 (U.S. Patent No. 8,180,030 B2), and IPR2021-00115 (U.S. Patent No. 10,142,270 B2). Pet. 1; Paper 7, 1.

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B. Overview of the '557 Patent

The '557 patent generally describes

> 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.

Ex. 1101, 1:34–40. The '557 patent explains that "[u]sers can engage in conversations by sending messages to designated recipients." *Id.* at 4:22–23. "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 "users engaged in a conversation can seamlessly transition from the live mode to the time-shifted mode and back again." *Id.* at 4:30–36. The '557 patent further explains that a "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 4:47–52.

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Figure 1 of the ’557 patent is reproduced below.

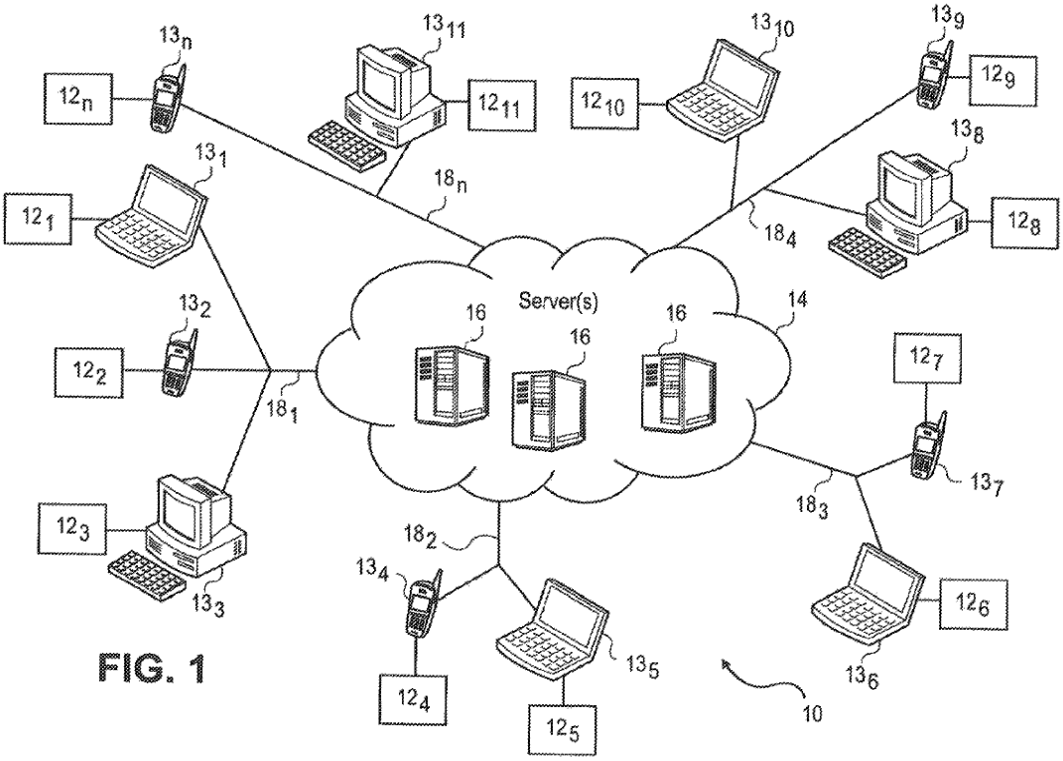

FIG. 1

Figure 1 illustrates the system architecture of the ’557 patent’s communication and media management system. *Id.* at 5:44–45. The ’557 patent explains that

> system 10 includes a plurality of Clients 12_1 through 12_n, running on Devices 13_1 through 13_n respectively. The Devices 13 communicate with one another over a communication services network 14, including one or more Servers 16. One or more networks 18_1 through 18_n, is provided to couple the plurality of Devices 13_1 through 13_n to the communication services network 14.

Id. at 11:56–63.

The ’557 patent describes a system that “enabl[es] users to participate in conversations without waiting for a connection to be established with another participant or the network.” *Id.* at 6:48–50. The system also enables users to manage multiple conversations at the same time. *Id.* at 7:10–11.

For example, one conversation may be current while all others are paused, multiple conversations may be rendered consecutively at a user's device, or multiple conversations may be simultaneously rendered. *Id.* at 7:11–15.

C. Illustrative Claim

Petitioner challenges claims 45, 46, 51, 54, 57, and 58 of the '557 patent. Claim 45 is independent, and claims 46, 51, 54, 57, and 58 depend directly or indirectly from claim 45. Claim 45 is illustrative of the claimed subject matter and is reproduced below:

> 45. A method for operating a video message service infrastructure on a network, the method comprising:
>
> receiving, at the video message service infrastructure, a first video message transmitted by a first sending device, the first video message containing first video media, the first video media being transmitted as the first video media is created;
>
> receiving, at the video message service infrastructure, a second video message transmitted by a second sending device, the second video message containing second video media, the second video media being transmitted as the second video media is created;
>
> transmitting from the video message service infrastructure over the network:
>
> (a) the first video media of the first video message to a recipient device; and
>
> (b) the second video media of the second video message to the recipient device;
>
> the transmission of (a) and (b) occurring so that the recipient device can simultaneously render at least a first portion of the first video message and at least a second portion of the second video message, the simultaneous rendering occurring:
>
> (c) as the first video media of the first video message and the second video media of the second video message are

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each being created and transmitted over the network by the first and the second sending devices respectively; and

(d) without having to first establish an end-to-end connection over the network between either of:

(i) the first sending device and the recipient device before the first sending device begins to transmit the first video media of the first video message; and

(ii) the second sending device and the recipient device before the second sending device begins to transmit the second video media of the second video message.

Ex. 1101, 50:9–46.

D. Asserted Grounds of Unpatentability

Petitioner asserts that claims 45, 46, 51, 54, 57, and 58 are unpatentable based on the following grounds (Pet. 2–3):

Claim(s) Challenged	35 U.S.C. §[1]	Reference(s)
45, 46, 51, 54, 57, 58	103(a)	Clisham[2]
54	103(a)	Clisham, Brueck[3]
58	103(a)	Clisham, Schmitt[4]

[1] The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) ("AIA"), amended 35 U.S.C. § 103. Because the '557 patent has an effective filing date before the effective date of the applicable AIA amendments, we refer to the pre-AIA version of 35 U.S.C. § 103.
[2] U.S. Patent Application Publication No. US 2004/0119814 A1, published June 24, 2004 (Ex. 1103, "Clisham").
[3] U.S. Patent No. 7,818,444 B2, filed Feb. 9, 2007, issued Oct. 19, 2010 (Ex. 1104, "Brueck").
[4] U.S. Patent Application Publication No. US 2006/0047750 A1, published Mar. 2, 2006 (Ex. 1105, "Schmitt").

III. DISCUSSION

A. Principles of Law

A claim is unpatentable under § 103(a) if the differences between the claimed subject matter 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. *KSR Int'l Co. v. Teleflex Inc*., 550 U.S. 398, 406 (2007). 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 indicia of non-obviousness.[5] *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

B. Level of Ordinary Skill in the Art

Citing the Declaration of Dr. Kevin Jeffay, Petitioner contends that a person of ordinary skill in the art at the time of the invention "would have had a bachelor's degree in computer science, computer engineering, or an equivalent degree, and 2–3 years of professional experience with distributed multimedia systems." Pet. 4 (citing Ex. 1102 ¶¶ 83–88). 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

[5] With respect to the fourth *Graham* factor, the parties at this time do not present arguments or evidence regarding objective indicia of non-obviousness. *See* Pet. 67. Therefore, the obviousness analysis at this stage of the proceeding is based on the first three *Graham* factors.

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> of experience in industry in the areas of computer networking, multimedia processing, or a related area of work.

Prelim. Resp. 11. We agree with Patent Owner that its "description of the level of ordinary skill in the art is essentially the same as that of the Petitioner," with only minor differences. *Id.*

To the extent necessary, and for purposes of this Decision, we adopt Petitioner's assessment of the level of ordinary skill in the art, as set forth in Dr. Jeffay's declaration, as it is consistent with the '557 patent and the asserted prior art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). We also agree with the parties that more work experience could compensate for less formal education, and vice versa. *See* Pet. 4; Prelim. Resp. 11. We note that our analysis herein would be the same under either party's proposal.

C. Claim Construction

In this *inter partes* review, we apply the same claim construction standard that would be used in a civil action under 35 U.S.C. § 282(b). 37 C.F.R. § 42.100(b) (2020). In applying this standard, we generally give claim terms their ordinary and customary meaning as would be understood by a person of ordinary skill in the art at the time of the invention and in the context of the entire patent disclosure. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc). Furthermore, we expressly construe the claims only to the extent necessary to determine whether to institute *inter partes* review. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) ("[W]e need only construe terms 'that are in controversy, and only to the extent necessary to resolve the controversy.'" (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

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Petitioner does not propose specific constructions for any claim terms and submits that "the claims of the '557 patent should be given their plain meaning." Pet. 15. In a footnote, Petitioner states that the parties requested construction of a single term—"end-to-end connection"—in the parallel litigation in the Western District of Texas. *Id.* at 15 n.3.[6] Although the district court had not issued a final claim construction order at the time the Petition was filed, Petitioner represents that the district court, in a tentative ruling, "adopted Patent Owner's proposal to give that term its plain and ordinary meaning." *Id.* Petitioner further states that it "does not propose to construe 'end-to-end connection' in this Petition, because *the limitation at issue is disclosed by the prior art under any reasonable construction*." *Id.* (emphasis added).

In its Preliminary Response, Patent Owner elaborates on the parties' dispute regarding "end-to-end connection" in the district court proceeding. Prelim. Resp. 12–13. Petitioner proposed that the term be construed as a "connection between network endpoints in which connection state necessary to maintain the connection exists at the endpoints." *Id.* at 12 (citing Ex. 2009, 19). Petitioner cited User Datagram Protocol ("UDP") as an example of a protocol that transmits without first establishing an end-to-end connection, as claim 45 requires, under Petitioner's proposed construction. *Id.* at 12–13 (citing Ex. 2009, 23). Meanwhile, Patent Owner proposed that the term be given its plain and ordinary meaning. Ex. 2010, 4. In its final

[6] The term "end-to-end connection" appears in the limitation of independent claim 45 requiring transmission of first and second video messages "without having to first establish an end-to-end connection between either of: (i) the first sending device and the recipient device . . . ; and (ii) the second sending device and the recipient device." Ex. 1101, 50:39–46.

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claim construction order, the district court adopted Patent Owner's proposal without explanation or analysis. Ex. 2002, 1; *see* Prelim. Resp. 13.

A petition for *inter partes* review must "[p]rovide a statement of the precise relief requested for each claim challenged," which "statement must identify . . . [h]ow the challenged claim is to be construed." 37 C.F.R. § 42.104(b)(3). If a petitioner believes that a claim term requires no express construction, the petition may include a statement to that effect. Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019), 44, *available at* https://www.uspto.gov/TrialPracticeGuideConsolidated. We understand Petitioner to make such a statement here by asserting that it does not propose to construe the term "end-to-end connection" in this Petition. *See* Pet. 15 n.3.

Based on the present record, our determination whether to institute an *inter partes* review does not depend on the particular construction of "end-to-end connection." As explained further below, however, Petitioner's decision not to propose a specific construction, combined with its failure to explain adequately how the prior art teaches or suggests the limitation containing "end-to-end connection" under "any reasonable construction" of that term, contributes to our determination that the information presented does not show a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of the challenged claims.

D. Asserted Obviousness over Clisham

Petitioner contends that claims 45, 46, 51, 54, 57, and 58 of the '557 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Clisham. Pet. 16–51. Petitioner relies on the Declaration of Dr. Jeffay in support of its showing. *Id.* (citing Ex. 1102). For the reasons discussed below, we conclude that Petitioner has not demonstrated a reasonable

likelihood it would prevail in showing that claims 45, 46, 51, 54, 57, and 58 are unpatentable on this asserted ground.

1. Overview of Clisham

Clisham discloses a system and method for providing video conferencing over wireless communication links. Ex. 1103, code (57). Figure 1 of Clisham, reproduced below, is a functional block diagram of a system configured to provide video conferencing:

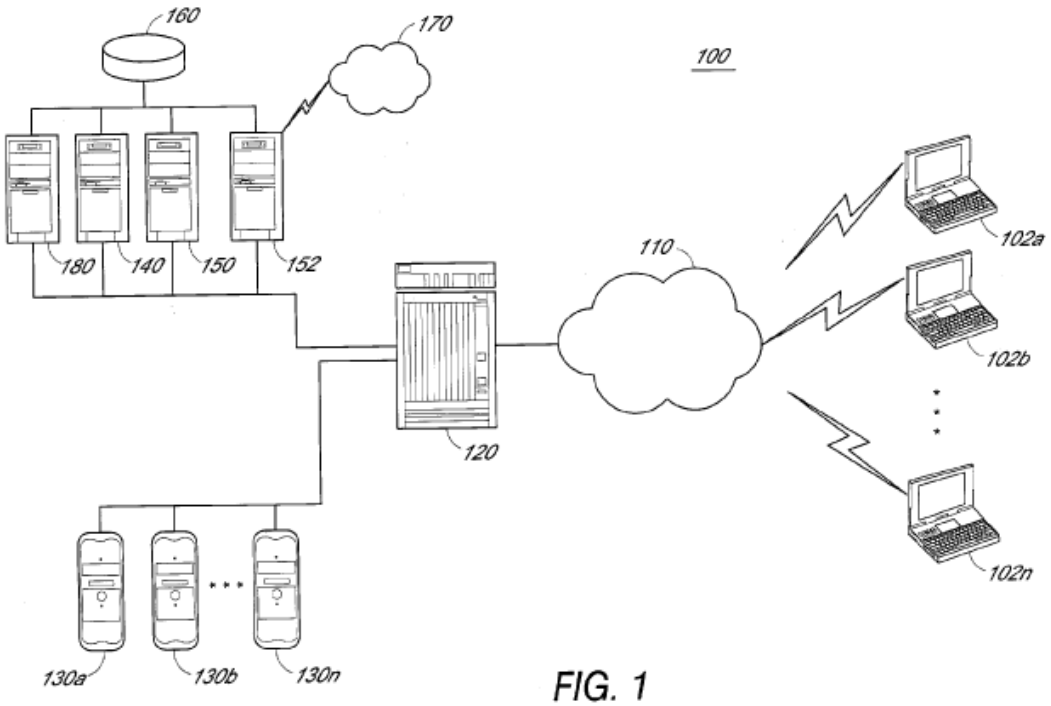

FIG. 1

As shown in Figure 1, Clisham's system "enables each of client devices 102*a*-102*n* to initiate, or accept, video conferencing sessions with one or more of the other client devices 102*a*-102*n*." *Id.* ¶ 31. A client device communicates with other client devices via wireless network 110. *Id.* ¶ 32. Router 120 is connected to wireless network 110 and is configured to route communications from source devices to destination devices. *Id.* ¶ 33. Router 120 also is configured to route communications between servers and

client devices 102*a*-102*n*. *Id.* The servers can include one or more content servers 130*a*-130*n*, which are configured to provide previously stored content to client devices 102*a*-102*n*. *Id.* ¶ 34. The system also may include billing system management application server 140, which, among other things, interfaces with wireless network 110 and client devices 102*a*-102*n* to track transactions, such as video conference sessions. *Id.* ¶ 35. Optional video server 180 is used for video conference configurations that use a video server to multicast video and audio from a source client device to multiple destination client devices. *Id.* ¶ 43.

Clisham discloses that a first client device can video conference with a single remote device or with multiple remote devices. *Id.* ¶ 64. The first client device "can engage in a video conference with multiple remote devices concurrently by independently enabling a session with each remote device." *Id.* If a first client device is engaged in video conferences with two remote devices it "can independently initialize, activate, and terminate each session." *Id.* The first client device can transmit signals directly to each of the remote devices via unicast or, alternatively, "can transmit signals to a video server that, in turn, multicasts the signals to the multiple remote devices engaged in the video conference." *Id.*

2. Analysis

Petitioner contends that Clisham teaches or suggests every limitation of independent claim 45. Pet. 16–31. Patent Owner argues that Clisham fails to teach or suggest certain limitations of claim 45, including "transmission of [first and second video messages] without having to first establish an end-to-end connection over the network between either of: (i) the first sending device and the recipient device . . . ; and (ii) the second sending device and the recipient device." Prelim. Resp. 27–31. Our

discussion below focuses on this limitation after briefly addressing some of the limitations preceding it.

Petitioner contends that Clisham discloses a "video message service infrastructure" that includes router 120 and video server 180. Pet. 17, 19 (citing, e.g., Ex. 1103 ¶¶ 33, 43, 64). Petitioner also contends that Clisham teaches a "first sending device" (one of client devices 102*a*-102*n*) and a "second sending device" (another one of Clisham's client devices) transmitting first and second video messages to Clisham's video message service infrastructure. *Id.* at 19–23 (citing, e.g., Ex. 1103 ¶¶ 31–32, 43, 63–64). Petitioner further contends that Clisham teaches transmitting the first and second video messages from the video message service infrastructure (including video server 180) over the network to a "recipient device" (a destination client device described in Clisham). *Id.* at 24–26 (citing, e.g., Ex. 1103 ¶¶ 31, 43, 60–61, 64–65, 69).

For the limitation requiring that transmission of the video messages to the recipient device occur "without having to first establish an end-to-end connection over the network between either" the first or second sending device and the recipient device, Petitioner argues that "[i]n the case of multicast video, no 'end-to-end connection' (or any other type of connection) is, or need be, established between either sending device and the recipient device before the sending device begins to transmit video media." *Id.* at 29 (citing Ex. 1102 ¶ 135). First, Petitioner contends that Clisham discloses that multicast video is transmitted from the sending device to the video server (part of the video message service infrastructure), which in turn transmits the video to destination devices. *Id.* at 29–30 (citing Ex. 1103 ¶¶ 43, 64; Ex. 1102 ¶ 136). Petitioner argues that "[g]iven the disclosures of multicast in Clisham, a [person of ordinary skill in the art] would have

understood that no end-to-end connection is disclosed or required to be established between either sending device and the recipient device before the sending device begins to transmit video media." *Id.* at 30 (citing Ex. 1102 ¶ 136).

Second, Petitioner contends that Clisham discloses the use of Real Time Transport Protocol (RTP) for multicast and states that its client devices can be configured to provide RTP over User Datagram Protocol (UDP) "if a connectionless, best effort, transport protocol is desirable." *Id.* (quoting Ex. 1103 ¶ 85 and citing Ex. 1102 ¶ 137). Further, Petitioner asserts, Clisham "explains that UDP 'may be preferred' to the connection-oriented TCP protocol '[b]ecause most video conference sessions can be sensitive to time delays and there may not be sufficient time to retransmit dropped data packets.'" *Id.* (quoting Ex. 1103 ¶ 85); *see* Ex. 1102 ¶ 137. Petitioner contends that "Clisham expressly acknowledges," and "a person of ordinary skill in the art would have understood," that "when packets are transmitted via UDP, no connection is established between the sending device and the destination device . . . before the sending device begins to transmit the media." Pet. 30–31 (citing Ex. 1102 ¶ 138).

In its Preliminary Response, Patent Owner contends that rather than teaching transmission without first establishing an end-to-end connection, Clisham discloses that the sending device "***always*** establishes an end-to-end connection with the recipient device before transmission by 'independently enabling a session with each remote device.'" Prelim. Resp. 27–28 (citing Ex. 1103 ¶ 64). Thus, Clisham explains, "the first client device . . . can operate many independent video conference sessions." Ex. 1103 ¶ 64; *see* Prelim. Resp. 28. Patent Owner contends that "[t]he 'sessions' discussed in Clisham are explicitly end-to-end connections between the sending and

receiving devices." Prelim. Resp. 28 (citing Ex. 1103 ¶ 10 ("a video conference session between the source device and the destination device"), ¶ 31 ("The system 100 enables each of the client devices 102*a*-102*n* to initiate, or accept, video conference sessions with one or more of the other client devices 102*a*-102*n*.")).

Patent Owner further asserts that Clisham's "sessions" must be established with special signaling mechanisms before any video data can be transmitted. *Id.* For example, Clisham's sending device includes a session control module that communicates with servers, such as the billing server, and other client devices "to set up, manage, and terminate conference sessions" Ex. 1103 ¶ 101; *see* Prelim. Resp. 28–29; *see also* Ex. 1103 ¶ 102 ("The session control module 242 can accept the user inputs to initiate a video conference session with a remote device."). Thus, according to Patent Owner, "Clisham's sending device first establishes a session—*i.e.*, an end-to-end connection—before transmitting video messages." Prelim. Resp. 29.

Patent Owner also contends that Petitioner's reliance on Clisham's disclosure of UDP transport-layer protocol "ignores Clisham's express disclosure of end-to-end 'sessions' established before transmission." *Id.* at 30 (citing Ex. 1103 ¶ 64). Patent Owner further argues that Petitioner's reliance on Clisham's description of transmission using UDP transport protocol is an attempt to re-litigate Petitioner's unsuccessful claim construction position in district court, where Petitioner sought to construe "end-to-end connection" as a "connection between network endpoints in which connection state necessary to maintain the connection exists at the endpoints." *Id.* (citing Ex. 2009, 19). Petitioner argued in district court that UDP is an example of a transmission protocol that transmits without first establishing an end-to-end connection under Petitioner's proposed

construction.[7] *Id.* (citing Ex. 2009, 23). As Patent Owner points out, however, the district court rejected Petitioner's proposed claim construction and instead agreed with Patent Owner that "end-to-end connection" should be given its plain and ordinary meaning. *Id.*; *see* Ex. 2002, 1. Patent Owner contends that according to its "plain and ordinary meaning" construction, an "end-to-end connection" is "one in which the sending and receiving devices directly communicate with each other." Prelim. Resp. 31 (citing Ex. 2010, 7 ("An end-to-end connection refers to a connection between two systems across a switched network. For example, the Internet is made up of a mesh of routers. Packets follow a hop-by-hop path from one router to the next to reach their destination.") (emphasis omitted)). Under this construction, Patent Owner asserts that "Clisham's UDP transmission establishes an end-to-end connection, which it calls a 'session,' before transmission." *Id.* (citing Ex. 1103 ¶ 64).

On the record before us, we are not persuaded that Petitioner has shown sufficiently that Clisham teaches or suggests transmission "without having to first establish an end-to-end connection over the network" between the first and second sending devices and the recipient device, as recited in claim 45. Petitioner argues that a person of ordinary skill in the art would have understood that Clisham's multicast scenario does not disclose or

[7] In the district court litigation, Petitioner contrasted UDP with connection-oriented protocols, such as TCP, that require connection state information be maintained at each endpoint, and argued that "[a] person of ordinary skill would have readily understood that an end-to-end connection exists between two endpoints on a network when each endpoint has knowledge of the other endpoint with which it communicates *as well as knowledge of the state of the communication*." Ex. 2009, 21–22 (emphasis added) (citing Dr. Jeffay's declaration testimony in district court).

require an end-to-end connection to be established between a sending device and the recipient device before transmission begins. Pet. 30 (citing Ex. 1102 ¶ 136). But on the record before us, Petitioner does not explain in sufficient detail why this is so, nor does Petitioner cite any disclosure in Clisham explicitly stating that no end-to-end connection is required before transmission begins or cite other evidence supporting its argument. *See id.* Dr. Jeffay's declaration, which mirrors the language in the Petition on this point, similarly does not provide any additional explanation or citation in support of Petitioner's contention. Ex. 1102 ¶ 136.

Moreover, as discussed above, Petitioner does not propose a specific construction for "end-to-end connection," but instead contends that "the limitation at issue is disclosed by the prior art *under any reasonable construction*." Pet. 15 n.3 (emphasis added). But in arguing that Clisham's multicast scenario does not disclose or require an end-to-end connection before transmission begins, Petitioner does not explain what constructions it considers to be within the range of "reasonable." On the other hand, Patent Owner argues that a video conference session established between a source device and a destination device in Clisham falls within the scope of "end-to-end connection" under the "plain and ordinary meaning" construction that Patent Owner proposed and the district court adopted. Prelim. Resp. 28–31 (citing Ex. 1103 ¶¶ 10, 31, 64). Patent Owner also persuasively argues that Clisham teaches or suggests establishing a session before transmission, even when a source device transmits to multiple destination devices via the video server using multicast. *Id.* at 28–29 (citing Ex. 1103 ¶¶ 64, 101). Under these circumstances, the Petition fails to make an adequate showing for purposes of instituting an *inter partes* review that Clisham teaches multicast

transmission without first establishing an end-to-end connection between a sending device and a destination device.

Furthermore, on this record we are not persuaded that Clisham's disclosure that video can be transmitted using UDP transport protocol bolsters Petitioner's argument that Clisham's multicast transmission does not require first establishing an end-to-end connection. *See* Pet. 30–31. First, as Patent Owner points out, Petitioner does not address Clisham's disclosure that end-to-end sessions are established before transmission. *See* Prelim. Resp. 30 (citing Ex. 1103 ¶ 64). Moreover, although Petitioner urged a construction in district court under which it argued that UDP is a transmission protocol that requires no end-to-end connection before transmission begins, the court did not adopt that construction. Ex. 2009, 19–23; Ex. 2002, 1; *see* Prelim. Resp. 30. In view of the district court's tentative ruling adopting Patent Owner's proposed construction before the Petition was filed, Petitioner's failure to explain in sufficient detail why Clisham's disclosure of UDP nevertheless satisfies the limitation at issue under Patent Owner's proposed construction undermines Petitioner's argument.

For at least these reasons, based on the record before us, Petitioner has not shown sufficiently that Clisham teaches or suggests transmission "without having to first establish an end-to-end connection over the network" between the first and second sending devices and the recipient device, as recited in claim 45. Challenged claims 46, 51, 54, 57, and 58 depend from claim 45. Therefore, we conclude the information presented does not demonstrate a reasonable likelihood that Petitioner would prevail in establishing that claims 45, 46, 51, 54, 57, and 58 of the '557 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Clisham.

E. Remaining Obviousness Grounds

Petitioner further challenges claim 54 by adding the teachings of Brueck to those of Clisham as discussed above and further challenges claim 58 by adding the teachings of Schmitt to those of Clisham as discussed above. Pet. 51–67. Petitioner relies on Brueck and Schmitt only for teaching limitations of dependent claims, not the subject matter of independent claim 45, and therefore these additional references do not remedy the deficiencies addressed above with respect to Petitioner's showing for claim 45. *Id.* Thus, for the same reasons discussed above, the information presented does not demonstrate a reasonable likelihood that Petitioner would prevail in showing that claims 54 and 58 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 45, 46, 51, 54, 57, and 58 of the '557 patent is unpatentable on the grounds asserted in the Petition.

V. ORDER

Accordingly, it is

ORDERED that the Petition is *denied*, and no *inter partes* review is instituted.

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