UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS INC.,
Petitioner,

v.

MULTIMEDIA CONTENT MANAGEMENT LLC,
Patent Owner.

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Case IPR2017-01934
Patent 8,799,468 B2

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Before PATRICK M. BOUCHER, MICHELLE N. WORMMEESTER, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

Unified Patents Inc. ("Petitioner") filed a Petition (Paper 1, "Pet.") pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–5, 9, 11–13, 19, 23–27, and 32–34 of U.S. Patent No. 8,799,468 B2 ("the '468 patent"). Multimedia Content Management LLC ("Patent Owner") filed a Preliminary Response. Paper 9 ("Prelim. Resp."). Applying the standard set forth in 35 U.S.C. § 314(a), which requires that Petitioner demonstrate a reasonable likelihood that it would prevail with respect to at least one challenged claim, we deny the Petition.

I. BACKGROUND

A. The '468 Patent

The '468 patent is directed to regulating access and managing distribution of content from a service provider network to a subscriber site. Ex. 1001, Abstract. A Service Preference Architecture (SPA) includes an Internet Control Point (ICP) connected to network 52. *Id.*, Fig. 1, 4:54–57. Communication Gateways (CGs), or "gateway units," are also connected to network 52. *Id.*, Fig. 1, 4:64–5:3. Figure 1, reproduced below, illustrates an exemplary embodiment of network 52.
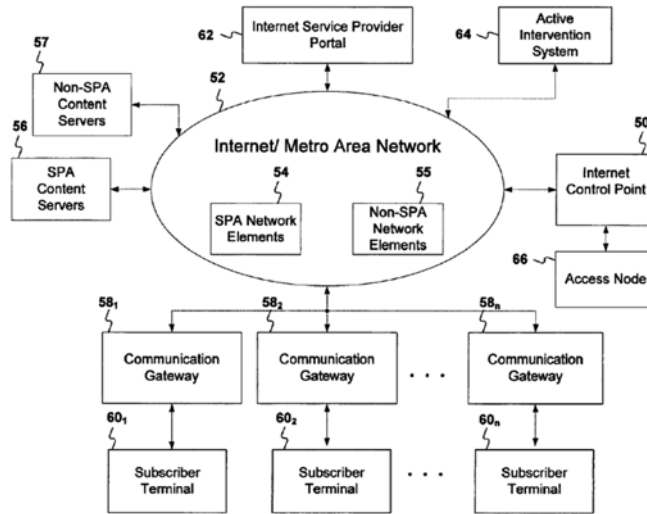
Figure 1

Figure 1 shows Internet/Metro Area Network 52 is comprised of SPA Network Elements 54 and Non-SPA Network Elements 55. *Id.*, Fig. 1, 4:57–63. Network 52 connects Internet Control Point 50 and Communication Gateways 58_1–58_n. *Id.*, Fig. 1, 4:64–5:3. Each of Communication Gateways 58_1–58_n is connected to a respective one of Subscriber Terminals 60_1–60_n. *Id.*, Fig. 1, 4:64–5:3.

Internet Control Point 50 generates and issues instructions to the CGs. *Id.*, 5:24–33. These instructions control whether the CGs may access content over the network, for example from SPA Content Servers 56 or Non-SPA Content Servers 57. *Id.*

B.   *Illustrative Claim*

Independent claim 1 of the '468 patent is illustrative of the claims at issue:

1.   A system for regulating access to a service provider network, the system comprising:
            a controller node coupled to the service provider network,
                the controller node comprising:

a first processor configured to generate controller instructions, and

first network interface configured to transmit the controller instructions over the service provider network to a plurality of gateway units; and

the plurality of gateway units, each of the plurality of gateway units comprising:

a user interface configured to receive user-entered content requests for the service provider network;

a second network interface coupled to the service provider network and configured to receive the controller instructions from the controller node through the service provider network; and

a second processor coupled to the user interface and the second network interface, wherein the second processor is configured to selectively transmit the content requests to the service provider network in accordance with the controller instructions, and transfer received content data responsive to the transmitted content requests from the service provider network via the second network interface.

Ex. 1001, 18:30–54.

C.   *Evidence Relied Upon*

Petitioner relies on the following references:

Reference		Date	Exhibit
Freund	U.S. Patent No. 5,987,611	issued Nov. 16, 1999	Ex. 1004
Spusta et al.	U.S. Patent Application Publication No. 2002/0032870 A1	published Mar. 14, 2002	Ex. 1005

Petitioner also relies on the Declaration of Norman Hutchinson, Ph.D. Ex. 1003.

D.   *Asserted Grounds of Unpatentability*

Petitioner challenges claims 1–5, 9, 11–13, 19, 23–27, and 32–34 under 35 U.S.C. § 103(a) based on the following references. Pet. 6.

Reference	Claims
Freund	1–5, 9, 12, 19, 23–27, 33
Spusta	1–3, 11, 13, 23–25, 32, 34

E.   *Related Proceedings*

Petitioner identifies the following now-closed proceedings as involving the '468 patent: (1) *Catonian IP Management, LLC v. Charter Communications, Inc. et al.*, Case No. 2:17-cv-00191 (E.D. Tex.); and (2) *Catonian IP Management, LLC v. Cequel Communications LLC et al.*, Case No. 2:17-cv-00190 (E.D. Tex.). Pet. 2.

II.   ANALYSIS

A.   *Claim Construction*

The Board interprets claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2142 (2016) (affirming applicability of broadest reasonable construction standard to *inter partes* review proceedings). Under the broadest reasonable interpretation standard, claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art at the time of the invention. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). However, a "claim term will not receive its ordinary meaning if the patentee acted as his own lexicographer and clearly set forth a definition of the disputed claim term in either the

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