Trials@uspto.gov
Tel: 571-272-7822

Paper 18
Entered: September 15, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MAJOR DATA UAB,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2022-00916
Patent 10,484,510 B2

Before THOMAS L. GIANNETTI, KEVIN C. TROCK, and SHEILA F. McSHANE, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

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

I. INTRODUCTION

Major Data UAB ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting *inter partes* review of claims 1, 2, 6–11, 13, and 15–24 (the "challenged claims") of U.S. Patent No. 10,484,510 B2 (Ex. 1001, "the '510 patent"). Bright Data Ltd. ("Patent Owner") filed a Preliminary Response (Paper 12, "Prelim. Resp."). With authorization, Petitioner filed a Preliminary Reply (Paper 16, "Pet. Prelim. Reply"), and Patent Owner filed a Preliminary Sur-reply (Paper 17, "PO Prelim. Sur-reply").

The Board has authority to determine whether to institute an *inter partes* review. *See* 35 U.S.C. § 314; 37 C.F.R. § 42.4(a). Under 35 U.S.C. § 314(a), we may not authorize an *inter partes* review unless the information in the petition and the preliminary 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."

For the reasons stated below, we determine that Petitioner has established a reasonable likelihood that it would prevail with respect to at least one claim. We therefore institute *inter partes* review as to all of the challenged claims of the '510 patent and all of the asserted grounds of unpatentability in the Petition.

II. BACKGROUND

A. Related Matters

The parties identify several district court proceedings involving the '510 patent and a related patent (U.S. Patent No. 10,257,319 ("the '319 patent")), including *Bright Data Ltd. v. NetNut Ltd.*, No. 2:21-cv-225 (E.D. Tex.); *Luminati Networks Ltd. v. Teso LT, UAB, et al.*, No. 2:19-cv-395 (E.D. Tex.); *Luminati Networks Ltd. v. BI Science (2009) Ltd.*, No. 2:19-cv-

397 (E.D. Tex.); and *Luminati Networks Ltd. v. Tefincom S.A.*, No. 2:19-cv-414 (E.D. Tex.). Pet. 3; Paper 6, 2–3.

According to the parties, the '510 patent was previously before the Board in IPR2020-01358, IPR2021-01493, IPR2022-00138, and IPR2022-00862. *See* Pet. 4–6; Paper 6, 1–2. Petitioner also identifies a number of other Board proceedings and district court actions involving patents related to the '510 patent. *See* Pet. 3–6.

Patent Owner identifies *ex parte* reexaminations for the '319 and '510 patents, respectively, Control No. 90/014,875 and Control No. 90/014,876. Paper 6, 2.

B. Real Parties-in-Interest

Petitioner identifies Major Data UAB as the real party-in-interest. Pet. 2. Patent Owner expresses concern, however, that "Major Data was formed as a 'back-up' option to continue these IPRs," and represents that Patent Owner "has not sued Major Data for infringement of any patents and Patent Owner is not aware of any services offered by Major Data." Prelim. Resp. 3.

In its Preliminary Reply, however, Petitioner points out that shortly before Patent Owner filed the Preliminary Response, Petitioner had advised Patent Owner and "confirmed, *inter alia*, that it is not affiliated with any of the Code200 parties and did not discuss the preparation or filing of IPRs with anyone apart from privileged communications with its own attorneys." Pet. Prelim. Reply 3. Petitioner avers that "it did not file its IPRs at any another party's behest." *Id.*

In its Preliminary Sur-reply, Patent Owner does not directly challenge Petitioner's representations, but instead "reserves all rights including, *e.g.*,

vacatur and sanctions, if any contradictions to Petitioner's representations should arise." PO Prelim. Sur-reply 4.

Based on the current record, we determine that Petitioner has established compliance with the statutory requirement under 35 U.S.C. § 312(a)(2) to identify all real parties in interest.

C. The '510 Patent

The '510 patent is titled "System Providing Faster And More Efficient Data Communication" and issued on November 19, 2019 from an application filed on February 17, 2019. Ex. 1001, codes (22), (45), (54). The patent is subject to a terminal disclaimer. *Id*. at code (*). The application for the '866 patent claims priority to several applications, including U.S. Provisional Application No. 61/249,624, filed October 8, 2009. *Id*. at code (60).

The '510 patent is directed to addressing the "need for a new method of data transfer that is fast for the consumer, cheap for the content distributor and does not require infrastructure investment for ISPs." Ex. 1001, 1:57–59. The ''510 patent states that other "attempts at making the Internet faster for the consumer and cheaper for the broadcaster," such as proxy servers and peer-to-peer file sharing, have various shortcomings. *Id.* at 1:61–3:6. The '510 patent provides a system and method "for faster and more efficient data communication within a communication network," such as in the network illustrated in Figure 3, reproduced below. *Id.* at 3:16–18, 4:5–7.

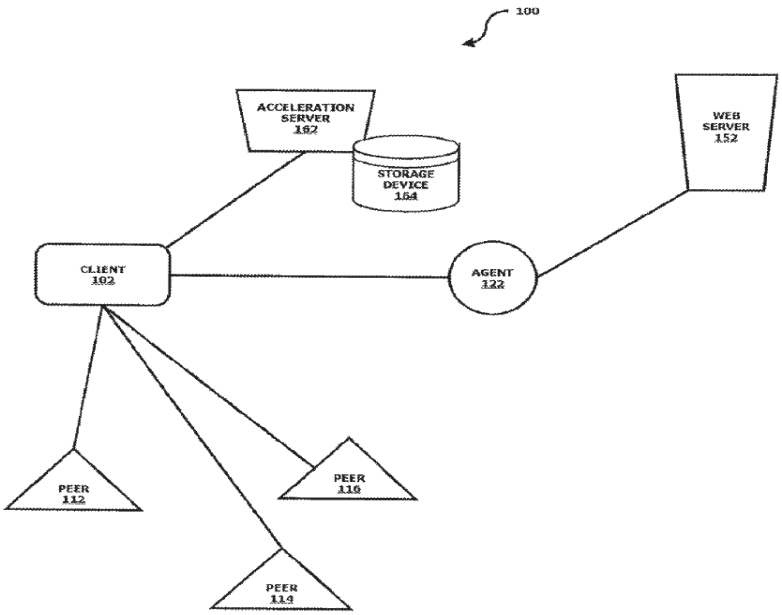

FIG. 3

Figure 3 is a schematic diagram depicting communication network 100 including a number of communication devices. Ex. 1001, 4:56–48. Client 102 is capable of communicating with peers 112, 114, and 116, as well as with one or more agents 122. *Id.* at 4:58–60. Web server 152 may be "a typical HTTP server, such as those being used to deliver content on any of the many such servers on the Internet." *Id.* at 4:65–5:2. Acceleration server 162 includes an acceleration server storage device 164 with an acceleration server database, which "stores Internet Protocol (IP) addresses of communication devices within the communication network 100 having acceleration software stored therein." *Id.* at 5:14–17.

In operation, a client may request a resource on the network, for example, through the use of an Internet browser. Ex. 1001, 12:62–13:3. If server 152 is the target of the request, the client sends the IP address of server 152 to acceleration server 162. *Id.* at 13:8–15. Acceleration server 162 then prepares a list of agents that can handle the request, which includes

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