

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LUMINATI NETWORKS LTD.,

Plaintiff,

v.

CODE200, UAB ET AL.,

Defendants.

Case No. 2:19-cv-00396-JRG

CLAIM CONSTRUCTION MEMORANDUM OPINION AND ORDER

Before the Court is the opening claim construction brief of Luminati Networks Ltd. (“Plaintiff”) (Dkt. No. 86, filed on December 18, 2020),¹ the response of Code200, UAB, Oxysales, UAB, and Metacluster LT, UAB (collectively “Defendants”) (Dkt. No. 88, filed on January 4, 2020), and Plaintiff’s reply (Dkt. No. 89, filed on January 8, 2021). The Court held a hearing on the issues of claim construction and claim definiteness on January 29, 2021. Having considered the arguments and evidence presented by the parties at the hearing and in their briefing, the Court issues this Order.

¹ Citations to the parties’ filings are to the filing’s number in the docket (Dkt. No.) and pin cites are to the page numbers assigned through ECF.

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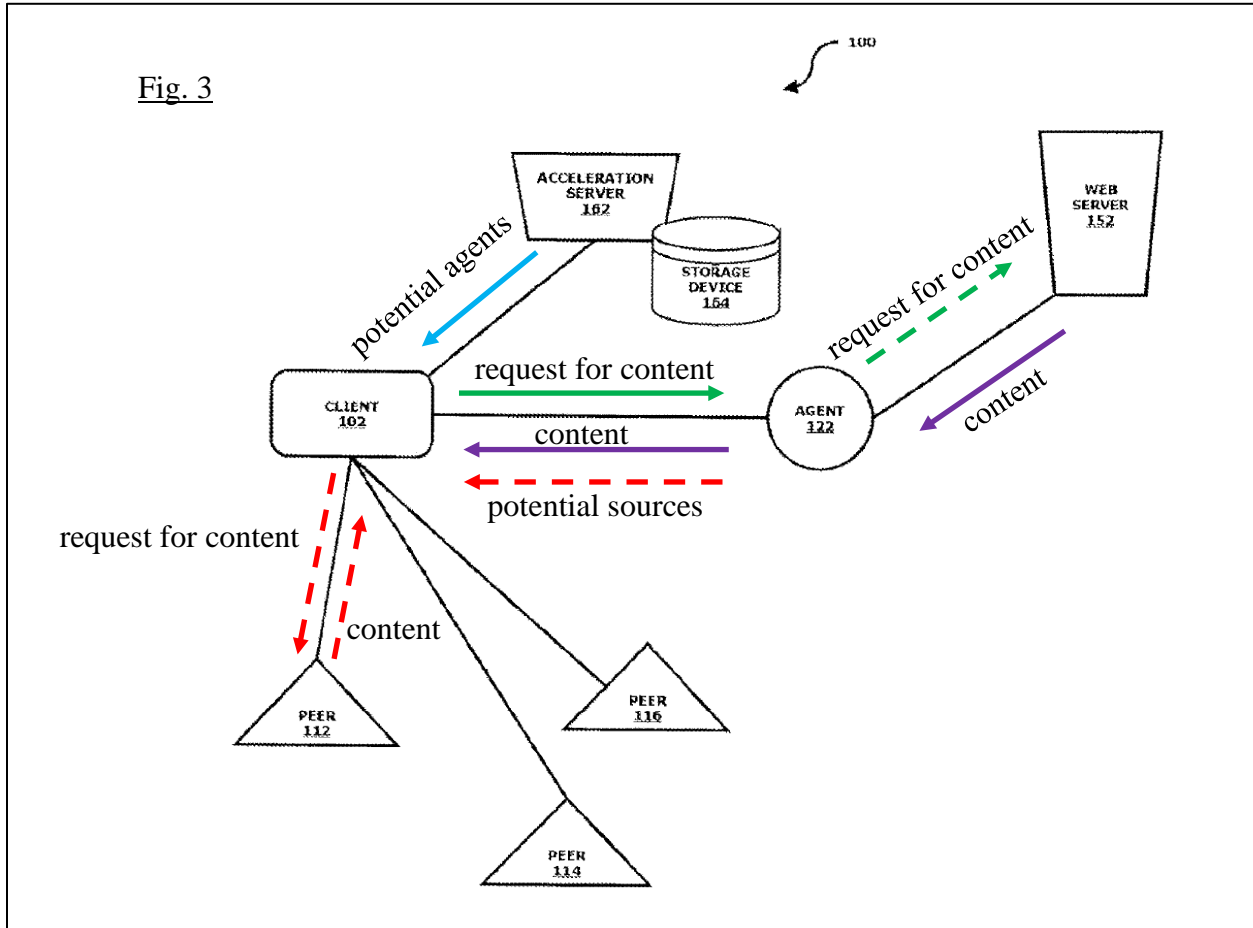
I. BACKGROUND

Plaintiff alleges infringement of two U.S. Patents: No. 10,484,511 (the “’511 Patent”) and No. 10,637,968 (the “’968 Patent”) (collectively, the “Asserted Patents”). The patents are related through a series of continuation and division applications. They each list an earliest priority claim to an application filed on October 8, 2009. The ’511 and ’968 Patents share a substantially identical specification, outside of the claim sets. The Court cites the ’511 Patent herein with the understanding that the ’968 Patent includes the same material.

The Asserted Patents are related to patents recently construed by the Court in Claim Construction Opinion and Order, *Luminati Networks, Ltd. v. Teso LT UAB et al.*, No. 2:19-cv-00395-JRG (E.D. Tex. Dec. 7, 2020), Dkt. No. 191 (the “*Teso* Markman Order”). Specifically, the Court there construed claims in three U.S. Patents: No. 10,257,319 (the “’319 Patent), No. 10,484,510 (the “’510 Patent), and No. 10,469,614 (the “’614 Patent”). The ’319 and ’510 Patents are related to the Asserted Patents and share a substantially identical specification with the Asserted Patents, outside of the claim sets.

In general, the Asserted Patents are directed to technology for improving communications in a communication network. The technology can be generally understood with reference to Figure 3, reproduced and annotated below. Communication devices in a network may be (inclusively) configured as a client (102), an agent (122), or a peer (112, 114, 116). Clients are configured to request content from a web server (152). Peers are configured to store copies of portions of the requested content in cache. Agents are configured to process the clients’ requests for content (solid green arrow) by (1) providing the client with a list of potential alternative sources of the requested content (dashed red arrow) or (2) if there are no suitable alternative sources, providing the client with the requested content which the agent retrieves from the web server (solid magenta arrow).

An acceleration server (162) stores a list of IP addresses of communication devices in the network and provides clients with a list of potential agents for the client request (blue solid arrow). '511 Patent col.4 l.43 – col.5 l.50, col.10 ll.22–46, col.12 ll.57 – col.15 l.11.



The abstracts of the Asserted Patents are identical and provide:

A system designed for increasing network communication speed for users, while lowering network congestion for content owners and ISPs. The system employs network elements including an acceleration server, clients, agents, and peers, where communication requests generated by applications are intercepted by the client on the same machine. The IP address of the server in the communication request is transmitted to the acceleration server, which provides a list of agents to use for this IP address. The communication request is sent to the agents. One or more of the agents respond with a list of peers that have previously seen some or all of the content which is the response to this request (after checking whether this data is still valid). The client then downloads the data from these peers in parts and in parallel, thereby speeding up the Web transfer, releasing congestion from the Web by fetching the information from multiple sources, and relieving traffic from Web servers by offloading the data transfers from them to nearby peers.

Claim 1 of the '511 Patent and Claim 1 of the '968 Patent, the independent claims at issue, recite as follows (with terms in dispute emphasized):

'511 Patent Claim 1. A method for fetching, by a first *client device*, a first content identified by a first content identifier and stored in a web server, for use with a *first server* that stores a group of IP addresses, the method by the first server comprising:

receiving, from the first client device, the first content identifier;
selecting, in response to the receiving of the first content identifier from the first client device, an IP address from the group;
sending, in response to the selecting, the first content identifier to the web server using the selected IP address;
receiving, in response to the sending, the first content from the web server; and
sending the received first content to the first client device,
wherein the first content comprises a web-page, an audio, or a video content,
and wherein the first content identifier comprises a Uniform Resource Locator (URL).

'968 Patent Claim 1. A method for use with a requesting *client device* that comprises an Hypertext Transfer Protocol (HTTP) or Hypertext Transfer Protocol Secure (HTTPS) client, *for use with a first web server that is a HTTP or HTTPS server that respectively responds to HTTP or HTTPS requests and stores a first content identified by a first content identifier*, for use with a *second server* distinct from the first web server and identified in the Internet by a second IP address, and for use with a list of IP addresses, the method comprising:

identifying, by the requesting client device, an HTTP or HTTPS request for the first content;
selecting, by the requesting client device, an IP address from the list;
sending, by the requesting client device, to the second server using the second IP address over the Internet in response to the identifying and the selecting, the first content identifier and the selected IP address; and
receiving, by the requesting client device, over the Internet in response to the sending, from the second server using the selected IP address, the first content.

II. LEGAL PRINCIPLES

A. Claim Construction

“It is a ‘bedrock principle’ of patent law that ‘the claims of a patent define the invention to which the patentee is entitled the right to exclude.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (quoting *Innova/Pure Water Inc. v. Safari Water Filtration Sys., Inc.*,

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