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Paper 8
Entered: July 1, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CODE200, UAB, TESO LT, UAB, METACLUSTER LT, UAB, and OXYSALES, UAB,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2022-00353
Patent 11,044,344 B2

Before THOMAS L. GIANNETTI, SHEILA F. McSHANE, and RUSSELL E. CASS, *Administrative Patent Judges.*

McSHANE, *Administrative Patent Judge.*

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

I. INTRODUCTION

Code200, UAB; Teso LT, UAB; Metacluster LT, UAB; and Oxysales, UAB (collectively, "Petitioner")[1] filed a Petition (Paper 1, "Pet.") requesting *inter partes* review of claims 1, 2, 6–11, 13, 16, 18–25, 29–34, 36, 39, and 41–46 (the "challenged claims") of U.S. Patent No. 11,044,344 B2 (Ex. 1002, "the '344 patent"). Patent Owner, Bright Data Ltd., filed a Preliminary Response (Paper 6, "Prelim. Resp.").

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 '344 patent and all of the asserted grounds of unpatentability in the Petition.

II. BACKGROUND

A. Related Matters

The parties identify several court proceedings that involve patents related to the '344 patent. Pet. 2–3; Paper 5, 2–3. In particular, the parties identify *Luminati Networks Ltd. v. Teso LT, UAB, et al.*, No. 2:19-cv-395

[1] Petitioner identifies coretech lt, UAB as another real party-in-interest. Pet. 1.

(E.D. Tex.) ("the Teso district court litigation"). The parties do not, however, identify any district court cases that involve the '344 patent. *Id*.

The parties also identify several *inter partes* reviews for patents related to the '344 patent, but similarly, none of these cases challenged claims of the '344 patent. Pet. 3–5; Paper 5, 1–2. In addition, the parties identify *ex parte* reexaminations ordered for related patents, Control No. 90/014,875 and Control No. 90/014,876. Pet. 8; Paper 5, 2.

B. The '344 Patent

The '344 patent is titled "System Providing Faster And More Efficient Data Communication" and issued on June 22, 2021, from an application filed on October 24, 2019. Ex. 1002, codes (22), (45), (54). The patent is subject to a terminal disclaimer. *Id*. at code (*). The application for the '344 patent claims priority to several applications, including U.S. Provisional Application No. 61/249,624, filed October 8, 2009. *Id*. at code (60).

The '344 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. 1002, 1:54–56. The '344 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 1:58–3:3. The '344 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 3:13–16, 4:3–5.

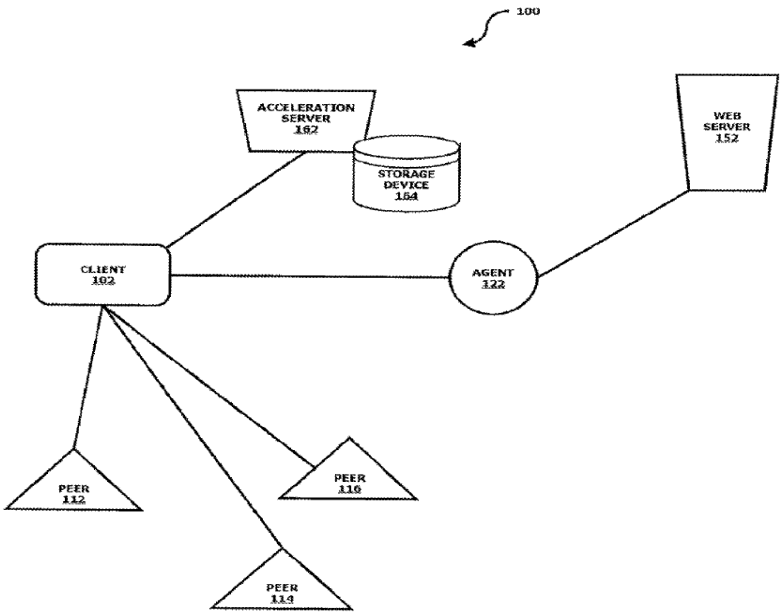

FIG. 3

Figure 3, above, is a schematic diagram depicting communication network 100 including a number of communication devices. Ex. 1002, 4:54–61. Client 102 is capable of communicating with peers 112, 114, and 116, as well as with one or more agents 122. *Id.* at 4:56–58. 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 4:63–67. Acceleration server 162 includes 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 5:11–16.

In operation, a client may request a resource on the network, for example, through the use of an Internet browser. Ex. 1002, 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 13:8–13. Acceleration server

162 then prepares a list of agents that can handle the request, which includes communication devices "that are currently online, and whose IP address is numerically close to the IP of the destination Web server 152." *Id.* at 13:19–29. The client then sends the original request to the agents in the list to find out which "is best suited to be the one agent that will assist with this request." *Id.* at 13:31–36. The connection established between the agent and client may be a Transmission Control Protocol [TCP] connection. *Id*. at 17:61–64.

Each agent responds to the client with information as to "whether the agent has seen a previous request for this resource that has been fulfilled," and "which can help the client to download the request information from peers in the network." Ex. 1002, 13:51–58. The client selects an agent based on a number of factors, and the selected agent determines whether data stored in its memory or the memory of the peers "still mirrors the information that would have been received from the server itself for this request." *Id.* at 13:64–14:1, 14:35–38. If the selected agent does not have the necessary information to service a request, it may "load the information directly from the server in order to be able to provide an answer to the requesting client." *Id.* at 14:62–67.

C. Illustrative Claim

The '344 patent has 46 claims. Claims 1 and 24 are the only independent claims. Claim 1 is illustrative of the claimed subject matter and is reproduced below, with bracketed designations added to the limitations for reference purposes.

> 1. [pre] A method for use with a web server that stores a first web-page identified by a first Uniform Resource Locator (URL), the method by a first client device comprising:

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