UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE WALT DISNEY COMPANY, DISNEY STREAMING SERVICES LLC,
AND HULU LLC,

Petitioners

v.

WAG ACQUISITION, LLC

Patent Owner

U.S. Pat. No. 9,762,636

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Inter Partes Review Case No. IPR2022-01227

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PATENT OWNER RESPONSE

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LIST OF PATENT OWNER'S EXHIBITS

Exhibit	Description
2001	*WAG Acquisition, LLC v. WebPower, Inc.*, 781 F. App'x 1007 (Fed. Cir. 2019)
2002	IETF RFC 1945
2003	Declaration of Henry Houh, Ph.D. Regarding Claims 1-17 of U.S. Patent No. 9,729,594, IPR2022-01346, Exhibit 1002
2004	IETF RFC 2068
2005	April 10, 2023, Remote Deposition of Henry Houh, IPR2022-01227-28
2006	Declaration of W. Leo Hoarty
2007	IETF RFC 1738
2008	Redline comparison of claims of '824 and '636 patents

I.   INTRODUCTION

Pursuant to 37 CFR § 42.120, WAG Acquisition LLC ("WAG" or "Patent

Owner") files this response to the Petition and the Institution Decision.

The claims of U.S. Patent No. 9,762,636 (the "'636 patent" or the "patent," Ex.

1001) address technical issues and resulting user frustration that arise in

transmitting live media programs over the internet, including startup delays when a

user requests to join a live stream, as well as repeated interruptions once streaming

has started, due to irregularities in the transport of data over the internet.

To address these problems, the patent provides solutions in two principal

embodiments—one a "push" solution involving pre-buffering of content, and the

other a "pull" of identified streaming data elements accumulated or loaded on the

server.

The challenged claims are drawn to the pull embodiment, which the

specification distinguishes from the other disclosed embodiments, in that the server

in the pull embodiment "does not maintain a pointer" marking the position of each

user in the stream (rather, the server in the pull embodiment is "stateless" with

respect to successive client requests). Ex. 1001, 14:45-49.

The patent's claims are all drawn to the pull embodiment. In each of the claims,

the program stream comprises a plurality of time-sequenced data elements

representing the entire program. The elements are time sequenced and serially

identified, and the server receives and responds to user system requests for the elements, the requests specifying the serial IDs of the requested elements. The claims go on to recite, *inter alia*, that the method provided for streaming the program uses a data connection between the server and user systems having a data rate more rapid than the playback rate of the elements, that the elements sent are selected without depending on a record of the last element sent, and that in transmitting the program, all of the media data elements sent are sent in response to the recited requests by serial identifier.

Petitioners rely primarily on Carmel *et al.*, U.S. Pat. No. 6,389,473, Ex. 1004, which they claim sufficiently discloses all claim limitations such that, Carmel, taken by itself, in view of the knowledge of a POSITA, renders the challenged claims obvious. The final pages of the Petition put forth a second ground under § 103, based on a combination of Carmel with Shteyn, U.S. Pat. No. 7,529,806, Ex. 1008.

First, as to Carmel—Patent Owner respectfully submits that the Petition and Dr. Houh's declaration reflect a basic misunderstanding of the teachings of Carmel. Carmel nowhere discloses the type of element-by-element successive requests from client to server that characterize a pull. To the contrary, Carmel's literal disclosures unmistakably describe a push. Dr. Houh disregards Carmel's literal disclosures in favor of conjecture as to how the disclosed transmission protocol

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