

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE DATA COMPANY TECHNOLOGIES INC.,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2022-00135
Patent 10,257,319 B2

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

GIANNETTI, *Administrative Patent Judge*.

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

I. INTRODUCTION

The Data Company Technologies Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1–29 (the “challenged claims”) of U.S. Patent No. 10,257,319 B2 (Ex. 1001, “the ’319 patent”). Patent Owner, Bright Data Ltd.,¹ filed a Preliminary Response (Paper 7, “Prelim. Resp.”). With authorization, Petitioner filed a Reply (Paper 8, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 9, “PO Sur-reply”).²

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 ’319 patent and all of the asserted grounds of unpatentability in the Petition.

¹ Bright Data Ltd. was formerly known as Luminati Networks, Ltd.

² Both the Reply and Sur-reply address the issue of discretionary denial of the Petition. See Section III, *infra*.

II. BACKGROUND

A. *Related Matters*

The parties identify several district court proceedings involving the '319 patent and its parent, U.S. Patent No. 10,484,510 (“the '510 patent”),³ including *Bright Data Ltd. v. NetNut Ltd.*, No. 2:21-cv-225 (E.D. Tex.) (the “NetNut Litigation”); and *Luminati Networks Ltd. v. Teso LT, UAB, et al.*, No. 2:19-cv-395 (E.D. Tex.) (the “Teso Litigation”). Pet. xv; Paper 4, 1–2.

The '319 patent was previously before the Board in IPR2020-01266 (institution denied) and IPR2021-01492 (pending). Pet. xiv–xv; Paper 5, 1. The '510 patent is involved in IPR2021-01493 (pending), and was previously before the Board in IPR2020-01358 (institution denied). Paper 5, 1–2.

In addition, Patent Owner identifies two *ex parte* reexaminations, Control Nos. 90/014,875 and 90/014,876, that have been ordered for the '319 and '510 patents, respectively. Paper 5, 2. Those reexaminations have since been stayed by the Board. *See* IPR2021-01492, Paper 14 (Apr. 7, 2022); IPR2021-01493, Paper 13 (Apr. 7, 2022).

B. *Real Parties-in-Interest*

Petitioner identifies itself as the only real party-in-interest. Pet. xiv. Without conceding that they are real parties in interest, Petitioner also identifies Avantis Team Technologies Ltd. and Cytronix Ltd. *Id.*

Patent Owner identifies Bright Data Ltd. as the only real party-in-interest. Paper 4, 1.

³ The '510 patent is based on a continuation of the application for the '319 patent. Ex. 1025, (60).

C. The '319 Patent

The '319 patent is titled “System Providing Faster and More Efficient Data Communication.” Ex. 1001, (54). According to the '319 patent, there is a “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.” *Id.* at 1:54–56. The 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 1:58–59; 2:24–2:32; 2:59–3:3.

The '319 patent describes 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 4:41–44):

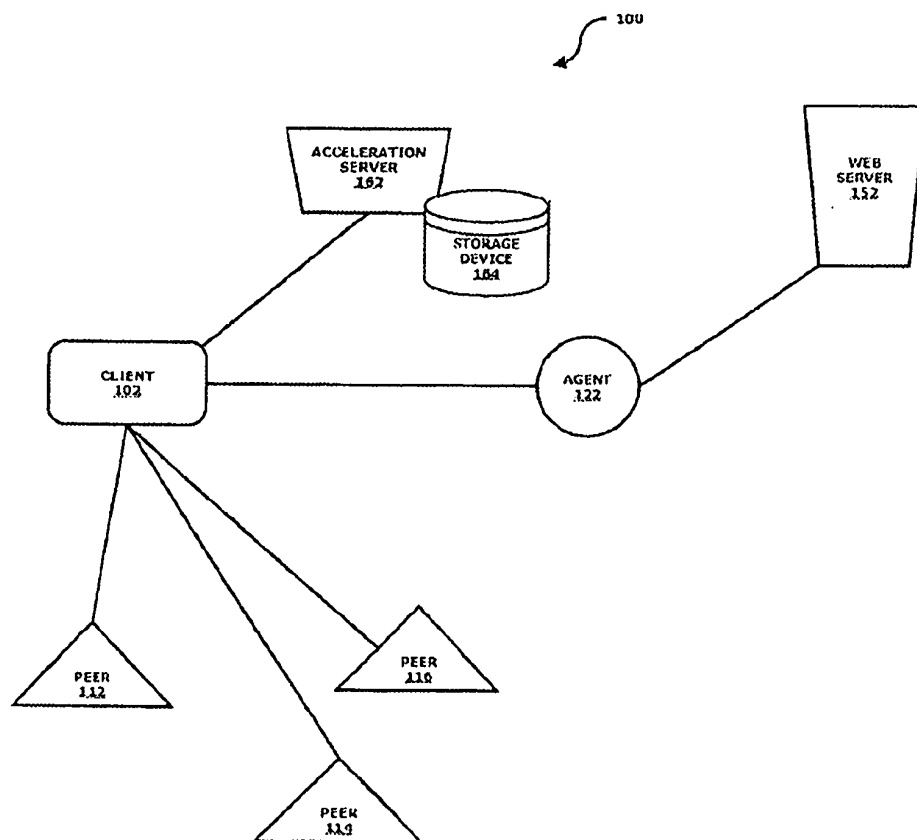


FIG. 3

Figure 3 is a schematic diagram depicting communication network 100 including a number of communication devices. *Id.* at 4:43–45. Due to the functionality provided by software stored within each communication device, “each device may serve as a client, peer, or agent, depending upon requirements of the network 100.” *Id.* at 4:46–50.

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 an acceleration server storage device 164

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