

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HULU, LLC, NETFLIX, INC.,
SPOTIFY USA INC., and VIMEO, LLC,
Petitioner,

v.

iMTX STRATEGIC, LLC,
Patent Owner.

Case CBM2015-00147
Patent 7,269,854 B2

Before THOMAS L. GIANNETTI, JAMES B. ARPIN, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

DECISION
Institution of Covered Business Method Patent Review
37 C.F.R. § 42.208

Hulu, LLC; Netflix, Inc.; Spotify USA Inc.; and Vimeo, LLC (collectively, “Petitioner”) filed a Petition (“Pet.”)¹ pursuant to 35 U.S.C. §§ 321–329 to institute a covered business method patent review of claims 1–23 (all claims) of U.S. Patent No. 7,269,854 B2, issued on September 11, 2007 (Ex. 1001, “the ’854 patent”). iMTX Strategic, LLC (“Patent Owner”) filed a Preliminary Response. Paper 13 (“Prelim. Resp.”). Applying the standard set forth in 35 U.S.C. § 324(a), which requires demonstration that more likely than not Petitioner would prevail with respect to at least one challenged claim, we grant Petitioner’s institute a covered business method review of all challenged claims.

I. BACKGROUND

A. The ’854 patent (Ex. 1001)

The ’854 patent is entitled “Transaction System for Transporting Media Files from Content Provider Sources to Home Entertainment Devices.” The Abstract describes the subject matter as follows:

A system and method for enabling a user to request and download selected media files from distributed content provider sites via the Internet. The system includes a plurality of user sites each including a player/receiver housed in an enclosure having a simple user interface, a plurality of content provider sites, and a transaction server site. The player/receiver enables the user to connect to the transaction server via the Internet to access a program guide listing available media files. The user is then able to select a desired file and, via the player/receiver and Internet, request the transaction server to authorize download of the selected file. The file request along with file encryption and transfer instructions are sent from the transaction server via the Internet to the content provider site

¹ References are to the Corrected Petition (Paper 8) filed June 9, 2015.

storing the requested file. Requested files are then dynamically encrypted by the content provider site and securely downloaded to the requesting player/receiver. The requesting player/receiver is uniquely capable of decrypting a downloaded file concurrent with playing back the file on a conventional home television set and/or audio system.

Ex. 1001, Abstract. This subject matter is illustrated by Figure 1 of the patent, which is reproduced below:

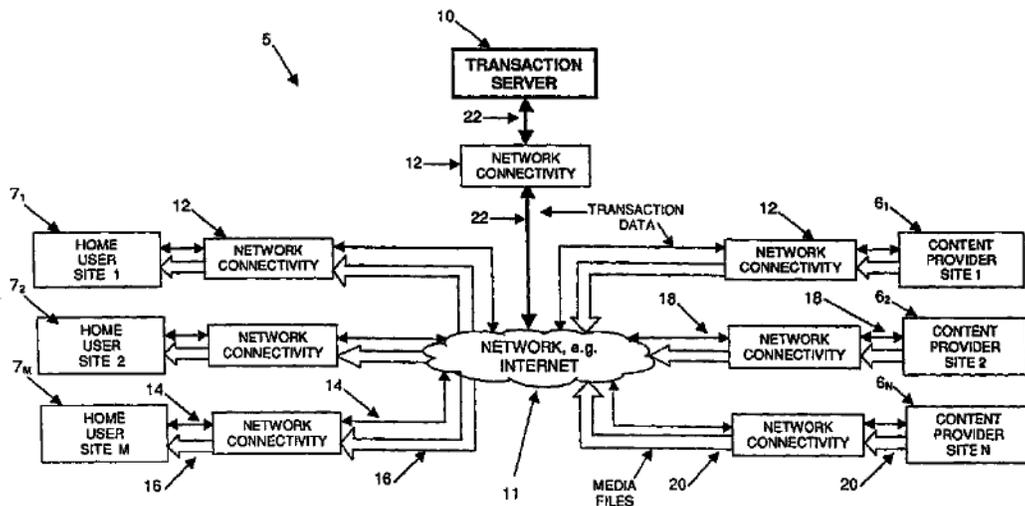


Figure 1 is a block diagram showing the architecture of a preferred system in accordance with the disclosure. Ex. 1001, col. 3, ll. 66–67. The system is comprised of a plurality of content provider sites 6₁, 6₂, etc., a plurality of home user sites 7₁, 7₂, etc., and transaction server site 10. Each of these is connected to common communications network 11. *Id.* at col. 4, ll. 31–36. In the preferred embodiment, network 11 is the public Internet. *Id.* at col. 4, ll. 37–38. In alternative embodiments, however, network 11 could comprise other public or private networks. *Id.* at col. 4, ll. 42–44.

In the preferred embodiment, connections to the Internet are formed by a suitable broadband network connectivity device 12. Examples include

cable modems, digital subscriber lines, or very small satellite Internet access systems. *Id.* at col. 4, ll. 38–41.

B. Illustrative Claim

Claims 1 and 14 are independent claims. Claim 1 is illustrative of the claims at issue and is reproduced below:

1. A system for executing user transaction requests for delivering digital media files via the Internet for driving a user site television set and/or audio equipment, said system comprising:

a plurality of user sites, each user site including a player/receiver, a television set and/or audio equipment, and a connectivity device for connecting said player/receiver to the Internet;

a plurality of provider sites, each provider site including a media server comprising a media file storage device and a media file encryptor, and a connectivity device for connecting said provider site media server to the Internet;

a transaction server and a connectivity device for connecting said transaction server to the Internet;

each said player/receiver including a user interface for sending a media file request via the Internet to said transaction server requesting delivery of an identified media file;

said transaction server being responsive to a received media file request for sending an authorization to the provider site storing the requested media file authorizing delivery of the requested media file from said provider site to the requesting player/receiver directly via the Internet;

said authorized provider site being responsive to said transaction server authorization for uniquely encrypting the identified media file and for downloading the encrypted media file directly via the Internet to said requesting player/receiver;

each said player/receiver including a media file decryptor; and wherein

only said requesting player/receiver decryptor is capable of decrypting said encrypted media file downloaded thereto for playback on the television set and/or audio equipment at the same user site.

Claim 14, directed to a method, recites subject matter that is similar to that of claim 1.

C. Related Proceedings

Petitioner and Patent Owner identify a number of related proceedings in the Northern District of California involving the '854 patent. Pet. 18–19; Paper 11, 2–3. To establish standing under AIA § 18(a)(1)(B), each of Hulu, LLC; Netflix, Inc.; Spotify USA Inc.; and Vimeo, LLC represents that it has been sued for infringing the '854 patent in the District of Delaware. Pet. 18.

In addition, the '854 patent also is involved in IPR2015-01061, in which *inter partes* review of claims 1–23 was instituted on October 15, 2015.

D. Real Party-in-Interest

The Petition identifies Hulu, LLC; Netflix, Inc.; Spotify USA Inc.; and Vimeo, LLC as the real parties-in-interest. Pet. 18. Patent Owner does not challenge this assertion.

E. References

Petitioner relies on the following references:

1. Hooper, et al., U.S. Patent 5,761,225, issued Sept. 23, 1997 (Ex. 1006) (“Hooper”)
2. Yongcheng Li, et al., *Security Enhanced MPEG Player*, March 25–26, 1996 (Ex. 1007) (“Li”)

3. Ulrich Kohl, *Secure Container Technology as a Basis for Cryptographically Secured Multimedia Communication*, Multimedia and Security Workshop at ACM Multimedia '98 (Sept. 1998) (Ex. 1008) (“Kohl”)
4. Hickey, U.S. Patent No. 5,475,835, issued. Dec. 12, 1995 (Ex. 1009) (“Hickey”)
5. Hector Garcia-Molina, et al., *Safeguarding and Charging for Information on the Internet*, PROCEEDINGS OF ICDE '98 (Feb. 1998) (Ex. 1010) (“Garcia-Molina”)

In addition, Petitioner relies on a Declaration of Darrell D. E. Long, Ph.D. (Ex. 1002).

F. Grounds Asserted

Petitioner challenges the patentability of claims 1–23 (all claims) of the '854 patent under 35 U.S.C. § 101. Petitioner additionally challenges the patentability of claims 1–23 of the '854 patent on the following grounds:

References	Basis	Claim(s) Challenged
Hooper and Li	§ 103(a)	1, 2, 6, 12, and 14
Hooper, Li, and Kohl	§ 103(a)	3–5 and 15–18
Hooper, Li, and Hickey	§ 103(a)	7–11 and 19–22
Hooper, Li, and Garcia-Molina	§ 103(a)	13 and 23

II. ANALYSIS

A. Standing

A covered business method patent is “a patent that claims a method or corresponding apparatus for performing data processing or other operations

used in the practice, administration, or management of a financial product or service, except that the term does not include patents for technological inventions.” Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”) § 18(d)(1); *see* 37 C.F.R. § 42.301(a). To determine whether a patent is for a “technological invention” under the statute, we consider “whether the claimed subject matter as a whole recites a technological feature that is novel and unobvious over the prior art; and solves a technical problem using a technical solution.” 37 C.F.R. § 42.301(b).

Petitioner asserts that the ’854 patent meets the standing requirement because “[e]ach of the ’854 patent claims recite[s] ‘executing user transaction requests’ and, therefore, [is] directed to activities that are financial in nature or, at a minimum, incidental or complimentary to a financial activity.” Pet. 11. As Petitioner points out, the ’854 patent defines “transaction” as “characterized by a procedure which debits a user’s payment account and credits a content provider’s receipt account.” Ex. 1001, col. 2, ll. 10–12. Each claim recites this term. *See Symphony Health Solutions Corp. v. IMS Health Inc.*, Case CBM2015-00085, slip op. at 11 (PTAB Sept. 10, 2015) (Paper 7) (“[E]ach claim recites a ‘health care field’ relating to ‘health care data,’ which is described in the specification as including claims data, such as pharmaceutical, medical and hospital claims data, i.e., claims for receiving payment or reimbursement.”).

Moreover, Petitioner points out that claim 23 (depending from claim 14) specifically recites initiating an electronic banking transaction to debit a user account and/or credit a media server account. Pet. 12. To the same effect is claim 13 (depending from claim 1). Ex. 1001. Petitioner asserts

that the '854 patent claims are, therefore, “fundamentally financial in nature.” Pet. 11.

Furthermore, Petitioner argues that the '854 patent does not fall under the exclusion from covered business method patent review for patents directed to technological inventions. Pet. 12–14. According to Petitioner, the '854 patent claims “do nothing more than recite routine steps for delivering digital media using conventional technology and are therefore not technological inventions.” *Id.* at 13.

Patent Owner responds that the technology covered by the '854 patent “has no relation to the financial services sector.” Prelim. Resp. 35–41. Instead, Patent Owner argues the claims “are drawn to systems and methods for delivering digital media files from content provider sites to home user entertainment systems via the Internet.” *Id.* at 35.

We are not persuaded by Patent Owner’s arguments. Patent Owner does not explain the recitation of financial activities (electronic banking transactions) in the patent specification and claims. Nor does Patent Owner assert that the exclusion for technological inventions applies here.

We conclude, therefore, that Petitioner has met the standing requirement by demonstrating that the '854 patent is a covered business method patent eligible for review.

B. *Claim Construction*

In a covered business method patent review, claim terms in an unexpired patent are construed according to their broadest reasonable interpretation in light of the specification of the patent in which they appear. 37 C.F.R. § 42.300(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012). Under that standard, claim terms are given

their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Both Petitioner and Patent Owner propose construction of a number of claim terms. Pet. 20–25; Prelim. Resp. 15–32. For purposes of this Decision, we determine that “connectivity device,” “user interface,” and “means for displaying a program guide” are the only terms requiring an express construction in order to conduct our analysis.

1. “connectivity device”

Petitioner construes this term as “a system capable of connecting to a network.” Pet. 21. Patent Owner agrees with this construction. Prelim. Resp. 16. We have reviewed the record and construe the term as a device capable of connecting to a network.

2. “user interface”

Petitioner construes this term as “a component by which a user can enter commands and view information.” Pet. 21. Patent Owner agrees with this construction. Prelim. Resp. 17. We have reviewed the record and construe the term as a component by which a user can enter commands and view information.

3. “means for displaying a program guide”

In our Institution Decision in IPR2015-01061 (Paper 9), we identified the structure supporting this means-plus-function term as a conventional television/video display. Petitioner in this case identifies the function as “displaying a/said program guide” and proposes as the corresponding structure “either a conventional television set or video display performing the function of displaying a program guide.” Pet. 25. Patent Owner agrees

with the Petitioner's statement of the function. Prelim. Resp. 25. As to the associated structure, however, Patent Owner identifies player/receiver subsystem 30 in Figure 2, television/video display interface 40, and "conventional" television/video display 42. Prelim. Resp. 26–27; Ex. 1001, col. 5, ll. 14–18.

Independent claim 1, from which claim 9 depends, already recites a "player/receiver." Thus, we are not persuaded that player/receiver subsystem 30, or television video display interface 40 contained therein, should be included as structure that performs the further limitation of "displaying" recited in dependent claim 9. We, therefore, determine that the supporting structure is a conventional, television/video display.

4. "Internet" and "encrypt/encrypting"

Patent Owner contends that Petitioner's failure to construe these "key terms" renders evaluation of the merits of Petitioner's arguments "impossible." Prelim. Resp. 16. Patent Owner offers no separate constructions for the terms. We are not persuaded that construction is necessary for these terms beyond their plain meaning, or that institution should be denied because Petitioner failed to submit claim constructions for "key terms." Prelim. Resp. 16.

5. Other Terms

In addition to the terms identified *supra*, Patent Owner proposes a special construction for certain terms relating to the downloading and encryption of data files. Prelim. Resp. 21–22. Patent Owner's constructions would add the limitation "without the media file having to be stored or processed by the transaction server and with no involvement by the transaction server in the downloading, such that the media file can only be

played back on the requesting player/receiver.” *Id.* The proposed constructions would rewrite the claims. We are not persuaded that they are consistent with the broadest reasonable interpretation. We, therefore, will rely on the plain meaning of the claim language for these limitations.

C. Subject Matter Eligibility Under 35 U.S.C. § 101

Petitioner contends that the challenged claims are directed to an abstract idea that is not eligible subject matter for a patent under 35 U.S.C. § 101. Pet. 26–35. In *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2355 (2014), the Supreme Court followed the two-step framework set forth in *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 132 S. Ct. 1289 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice*, 134 S. Ct. at 2355.

In the first step, “we determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* “If so, we then ask, ‘[w]hat else is there in the claims before us?’” *Id.* (quoting *Mayo*, 132 S. Ct. at 1297). In the second step, we consider the elements of each claim both individually and as an ordered combination to determine whether the additional elements transform the nature of the claim into a patent-eligible application. *Id.*

Step two of the analysis may be described as a search for an “inventive concept”—i.e., an element or combination of elements that is sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the ineligible concept itself. *Id.* (citing *Mayo*, 132 S. Ct. at 1294).

According to Petitioner, the claims of the '854 patent “recite nothing more than the abstract idea of delivering media files to a user via a communications network.” Pet. 29. Petitioner also contends that the patent fails under the second prong of the *Alice* framework because the claims “merely require generic implementation using well-known, routine, conventional computers and video production tools (*e.g.*, servers, local storage, and the Internet), failing to transform the abstract idea of delivering media files to a user via a communications network into a patent-eligible invention.” *Id.* at 30. In support, Petitioner relies principally on *Alice* and on *Ultramercial, Inc. v. Hulu*, 772 F.3d 709 (Fed. Cir. 2014).

Patent Owner responds that “the ‘854 patent is directed to systems and methods for the secure delivery of digital media files from a content provider site to a requesting user site over a communications network.” Prelim. Resp. 42. Patent Owner explains that, in contrast to the claims considered in *Alice*, “the ‘854 patent claims are directed to real-world, specialized physical components: ‘player/receiver[s],’ ‘user sites,’ ‘transaction server,’ ‘media file storage device,’ ‘media file encryptor,’ ‘connectivity device,’ ‘media server[s],’ ‘television set and/or audio equipment.’ *Id.*

Patent Owner also relies on language from *Ultramercial*, 772 F.3d at 715, defining “an abstraction” as “an idea, having no particular concrete or tangible form.” *Id.* at 48. Patent Owner contends: “[t]he ‘854 patent claims have a clear concrete and tangible form in that they are directed to securely delivering digital media files directly to a requesting user site via a communication network with tangible and concrete hardware that has been adapted for that purpose.” *Id.* As Patent Owner summarizes: “[t]he ‘854

Patent claims do not fall within the contours of an abstract idea or patent-ineligible computer implementation of an abstract idea as they have physical, tangible and specialized components that are directed to more than performance of an abstract idea.” *Id.* at 44 (citing *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014)).

We agree with Patent Owner that the ’854 patent claims differ from those considered in *Alice* and *Ultramercial*. Pet. 28–29. Specifically, the claims do not involve mathematical algorithms, fundamental economic or conventional business practices. Prelim. Resp. 43. The claims do more than simply instruct the practitioner to implement an abstract idea on the Internet. *Id.* In *DDR Holdings*, the Federal Circuit rejected a patent challenge under § 101 where the claims “do not merely recite the performance of some business practice known from the pre-Internet world along with the requirement to perform it on the Internet.” 773 F.3d at 1257. The Federal Circuit continued: “Instead, the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks.” *Id.* This led the Federal Circuit to conclude: “under any characterizations of the abstract idea,” the patent claims satisfied step two of the *Mayo/Alice* analysis. *Id.*

The *DDR* Court distinguished the claims before it from those in *Ultramercial* because they do not “broadly and generically” claim the use of the Internet to perform an abstract business practice with insignificant added activity. *DDR Holdings*, 773 F.3d at 1258. For the foregoing reasons advanced by Patent Owner, we are persuaded that the ’854 patent claims, like those upheld in *DDR Holdings*, differ in substance from those in *Ultramercial*. Instead, like the claims in *DDR*, they are “rooted” in non-

abstract computer network technology. We agree with Patent Owner that the '854 patent describes a media server (Fig. 3) and transaction server (Fig. 4) that are not “generic computers.” Prelim. Resp. 55. For this additional reason, we agree with Patent Owner that the risk of pre-emption is minimized. As observed in *DDR*, “[i]t is also clear that the claims do not attempt to preempt every application of the idea.” *DDR Holdings*, 773 F.3d at 1259. As in *DDR*, we are persuaded that, however the abstract idea is characterized, the '854 patent claims do not meet the second prong of the *Mayo/Alice* test.

We conclude, therefore, that Petitioner has not demonstrated that it is more likely than not to succeed on its challenge under 35 U.S.C. § 101.

D. Asserted Ground Based on Hooper and Li
(Claims 1, 2, 6, 12, and 14)

Petitioner contends that the subject matter of these claims would have been obvious over Hooper and Li in combination. Pet. 35–53. We have reviewed the information provided by Petitioner, including the claim chart analysis and supporting Long Declaration (Ex. 1002, “Long Decl.”), and are persuaded that, based on this record, Petitioner has demonstrated that more likely than not it will prevail on this obviousness challenge.

1. Hooper Overview

Dr. Long describes Hooper as follows:

Hooper discloses “a distributed interactive multimedia service system.” Ex. 1006 at Abstract. In the Hooper system, a client set-top box generates a request. Ex. 1006 at 5:25–32. After validating the client identity, a session manager sends an allocate request to a resource manager (“RM”), a create request to a media stream manager (“MSM”), and a launch request to launch the client’s selected service on any of a plurality of media servers. Ex. 1006 at 5:26–67. Without communicating

via the session manager, “the services can send video streams directly to the client.” Ex. 1006 at 5:61–67.

Long Decl. ¶ 56.

2. Li Overview

Petitioner relies on Li for its teaching of encryption and decryption. Pet. 36. Li describes the use of both secret key and public key encryption and decryption of continuous, real-time video streams such as MPEG streams. Ex. 1007, 1.

3. Discussion

Petitioner’s analysis of claims 1, 2, 6, 12, and 14 in relation to Hooper and Li appears at pages 35–53 of the Petition and at paragraphs 82–106 of the Long Declaration. As the Petition states,

A POSITA would view claims 1-2, 6, 12, and 14 of the ’854 patent as being obvious in view of the combination of Hooper and Li. *See id.* ¶82. Hooper generally provides the claimed structural aspects of a system for “delivering digital media files via the Internet” with “a plurality of user sites” each with “a player/receiver,” “a plurality of provider sites,” “a connectivity device,” and “a transaction server.” Hooper also provides for “sending a media file request . . . to the transaction server” from a player/receiver and for “downloading the encrypted media file directly via the Internet” from the provider site to the requesting player/receiver. While Hooper does not disclose the aspects of a “media file encryptor” for “uniquely encrypting the media file” or a “media file decryptor,” Li does and would reasonably have been combined with Hooper at the time.

Pet. 36. Supported by the Long Declaration, Petitioner sets forth a rationale for combining Hooper and Li at pages 51–53. Among other reasons, Petitioner contends that encryption and decryption techniques were known and commonly used in various video transmission systems predating the filing of the 854 patent “by decades.” Pet. 51 (citing Long Decl. ¶ 83).

Patent Owner's Preliminary Response is directed to claims 1 and 14 only, and does not argue separately the patentability of the dependent claims. Prelim. Resp. 58. We, therefore, do not discuss separately the challenged dependent claims. We conclude, however, that Petitioner's claim charts and accompanying analysis (Pet. 35–53) persuasively demonstrate where each limitation of the challenged claims is found in the Hooper-Li combination.

Patent Owner criticizes Petitioner's claim analysis on a number of grounds. Patent Owner contends that the claim charts and analysis fail to meet the "requisite standards." Prelim. Resp. 59. Patent Owner asserts also that Petitioner "fail[s] to articulate any reasoning as to why one would combine Li with Hooper," nor does Petitioner "provide any analysis as to how Li would be combined with Hopper." *Id.* at 60. We disagree. We determine that the detailed claim charts and analysis provided by Petitioner adequately meet the standards for showing obviousness. And, as noted *supra*, the Petition (pp. 51–53) and the Long Declaration (¶¶ 83–85) provide convincing rationales for combining the references. Among them is the following statement from Dr. Long's testimony:

Thus, one of ordinary skill in the art would have recognized that Hooper and Li disclosed methods and systems similarly directed to the transmission of video and would have viewed combining the known aspects of video transmission as an application of known systems to achieve a predictable result, i.e. a distributed interactive multimedia service system that uses encryption and decryption.

Long Decl. ¶ 84.

Patent Owner also alleges that the Long declaration is "flawed" and should be "given no weight." Prelim. Resp. 61. According to Patent Owner, Dr. Long makes "conclusory" statements regarding the teachings of the cited

prior art and the claims “in complete contradiction to what the cited art explicitly teaches.” *Id.* at 61–62. According to Patent Owner, the prior art “does *not* utilize Internet-based systems, but rather closed networks.” *Id.* at 61. Such closed networks “exhibit the precise problems that the [claimed] invention addresses.” *Id.*

We are not convinced by this argument. On this record, we find that there is adequate factual support for Dr. Long’s conclusions and we, therefore, credit them in making our determination. The ’854 patent specification provides no special definition for the term “Internet” beyond its plain and ordinary meaning. There was, therefore, no necessity for Petitioner or Dr. Long to offer a proposed construction for that term. Prelim. Resp. 62. In that regard, the description of the Internet set forth in the ’854 patent (Ex. 1001, col. 4, ll. 44–47) is consistent with the term’s plain meaning. In addition, a relevant definition of “Internet” is “[t]he worldwide collection of networks and gateways that use the TCP/IP suite of protocols to communicate with one another.” MICROSOFT COMPUTER DICTIONARY 242 (4th Ed. 1999) (Ex. 3001).

Moreover, we are persuaded that the combination of Hooper and Li discloses the “Internet” under the plain meaning of that term. Even assuming that Hooper’s network does not disclose the “Internet,” Li discloses expressly that the MPEG video streaming described therein occurs over the Internet (*see, e.g.*, Pet. 37). As the Federal Circuit reminded in *Western Union Co. v. MoneyGram Payment Sys., Inc.*, 626 F.3d 1361, 1370 (Fed. Cir. 2010), “applying computer and internet technology to replace older electronics has been commonplace in recent years.”

We have considered Patent Owner's other arguments regarding this ground of challenge and find them unpersuasive.

*E. Asserted Ground Based on Hooper, Li, and Kohl
(Claims 3–5, 15–18)*

Petitioner's third ground contends that the subject matter of these claims would have been obvious over Hooper, Li, and Kohl. Pet. 53–61. Petitioner relies on Kohl for certain details of encryption recited in these claims. As an example, in Kohl, "the buy request message contains the encrypted [part encryption key ('PEK')] and public key certificate," which Petitioner contends satisfies the limitation of claim 3 that the media file request itself includes an encryption key. Pet. 54 (citing Ex. 1008 at 33; Long Decl. ¶ 111). In addition, Petitioner sets forth a persuasive rationale for combining Hooper, Li, and Kohl. Pet. 59–61; Long Decl. ¶¶ 108–10.

Patent Owner does not respond separately to this challenge. We have reviewed the claim charts and analysis provided by Petitioner as to claims 3–5 and 15–18 (Pet. 53–61) and are persuaded that based on this record, Petitioner has demonstrated that more likely than not it will prevail on this challenge to those claims.

*F. Asserted Ground Based on Hooper, Li, and Hickey
(Claims 7–11, 19–22)*

Petitioner's fourth ground contends that the subject matter of these claims would have been obvious over Hooper, Li, and Hickey. Pet. 61–74. Petitioner relies on Hickey for disclosure of a program guide. Pet. 61. In addition, Petitioner sets forth a persuasive rationale for combining Hooper, Li, and Hickey. Pet. 73–74; Long Decl. ¶¶ 119–21.

Patent Owner does not respond separately to this challenge. We have reviewed the information and analysis provided by Petitioner (Pet. 61–64) and are persuaded that based on this record, Petitioner has demonstrated that more likely than not it will succeed on this challenge.

*G. Asserted Ground Based on Hooper, Li, and Garcia-Molina
(Claims 13, 23)*

Petitioner’s fifth ground contends that the subject matter of these claims would have been obvious over Hooper, Li, and Garcia-Molina. Pet. 74–80. Petitioner relies on Garcia-Molina for disclosure of electronic banking. Pet. 75. In addition, Petitioner sets forth a persuasive rationale for combining Hooper, Li, Hickey, and Garcia-Molina. Pet. 78–80; Long Decl. ¶¶ 135–37.

Patent Owner does not respond separately to this challenge. We have reviewed the information provided by Petitioner and are persuaded that, based on this record, Petitioner has demonstrated that more likely than not it will succeed on this challenge.

III. SUMMARY

On the present record, we are persuaded that the information presented, if unrebutted, would demonstrate that it is more likely than not that claims 1–23 of the ‘854 patent are unpatentable based on the following grounds:

- A. Obviousness of claims 1, 2, 6, 12, and 14 over Hooper and Li;
- B. Obviousness of claims 3–5 and 15–18 over Hooper, Li, and Kohl;
- C. Obviousness of claims 7–11 and 19–22 over Hooper, Li, and Hickey;

D. Obviousness of claims 13 and 23 over Hooper, Li, and Garcia-Molina.

At this stage of the proceeding, we have not made a final determination as to the patentability of any challenged claim or the construction of any claim term.

IV. ORDER

It is, therefore,

ORDERED that, pursuant to 35 U.S.C. § 324(a), a covered business method patent review is hereby instituted on the following grounds:

- A. Obviousness of claims 1, 2, 6, 12, and 14 over Hooper and Li;
- B. Obviousness of claims 3–5 and 15–18 over Hooper, Li, and Kohl;
- C. Obviousness of claims 7–11 and 19–22 over Hooper, Li, and Hickey;
- D. Obviousness of claims 13 and 23 over Hooper, Li, and Garcia-Molina.

FURTHER ORDERED that review based on any other proposed grounds of unpatentability is not authorized; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 324(d) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial commencing on the entry date of this decision.

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