

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DUODECAD IT SERVICES LUXEMBOURG S.À R.L.,
ACCRETIVE TECHNOLOGY GROUP, INC., ICF TECHNOLOGY, INC.,
RISER APPS LLC, and STREAMME, INC. (f/k/a VUBEOLOGY, INC.),
Petitioners,

v.

WAG ACQUISITION, LLC,
Patent Owner.

Case IPR2017-00820
Patent 8,122,141 B2

Before TREVOR M. JEFFERSON, BRIAN J. McNAMARA, and
PATRICK M. BOUCHER, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

DECISION

Petition for *Inter Partes* Review and Motion for Joinder
37 C.F.R. § 42.108
37 C.F.R. § 42.122(b)

On January 31, 2017, Duodecad IT Services Luxembourg S.à r.l.,
Accretive Technology Group, Inc., ICF Technology, Inc., Riser Apps LLC,
and StreamMe, Inc. (“Petitioners”) filed a Petition (Paper 2, “Pet.”) to

institute an *inter partes* review of claims 1–28 of U.S. Patent No. 8,122,141 B2 (“the ’141 patent”); and (2) a Motion for Joinder (Paper 3, “Mot.”) with IPR2016-01238 (“the related IPR”), which was instituted on January 4, 2017. On February 21, 2017, WAG Acquisition, LLC (“Patent Owner”) filed an Opposition to the Motion for Joinder (Paper 8, “Opp.”), to which Petitioners replied on February 27, 2017 (Paper 9, “Reply”). On March 20, 2017, Patent Owner waived filing of a Preliminary Response to the Petition. Paper 14.

We grant the Motion for Joinder, joining Petitioners as parties to the related IPR, and dismiss the Petition.

I. BACKGROUND

A. *The ’141 Patent*

The ’141 patent discloses a system for streaming media, such as audio or video, via the Internet with reduced playback interruptions. Ex. 1001, col. 4, ll. 39–44. Data interruptions can be recovered while a media player continues to play the audio or video material. *Id.* at col. 4, ll. 48–50. Figure 1 of the ’141 patent is reproduced below.

Fig. 1

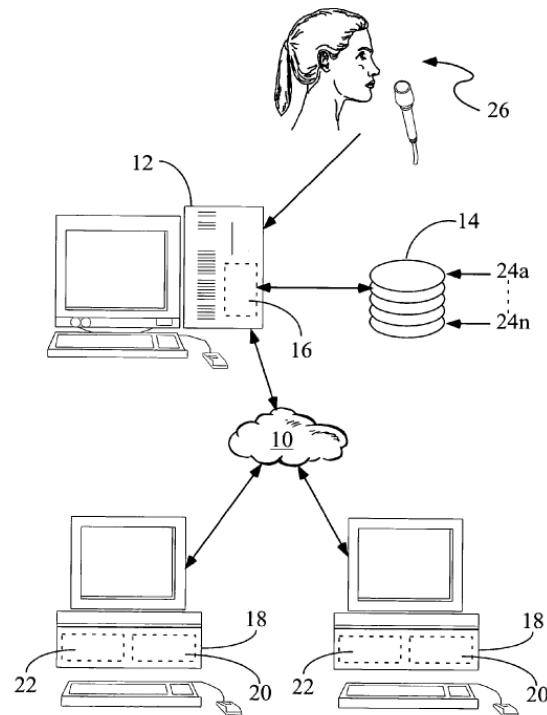


Figure 1 is a schematic diagram that illustrates elements of a streaming media buffering system. *Id.* at col. 10, ll. 7–9. Server 12 is connected to the Internet for transmitting sequenced streaming-media data elements. *Id.* at col. 10, ll. 22–25. Associated with server 12 are buffer manager 16 and first-in–first-out (“FIFO”) buffer 14, which stores at least one of the data elements for transmission. *Id.* at col. 10, ll. 25–27. Buffer manager 16 receives the media data, supplies the media data in order to FIFO buffer 14, and maintains pointers 24a–24n into the buffer for user computers, indicating the last media data element that has been sent to respective users and thus indicating the next element or elements to be sent. *Id.* at col. 10, ll. 30–38. Once FIFO buffer 14 is full, the oldest data elements in the buffer are deleted as new elements are received. *Id.* at col. 10, ll. 38–40. A

predetermined number of data elements are kept in FIFO buffer 14. *Id.* at col. 10, ll. 40–41.

At least one user computer 18 is connected to server 12 via the Internet. *Id.* at col. 10, ll. 45–46. User buffer 20 is associated with user computer 18 and stores a predetermined number of the media data elements. *Id.* at col. 10, ll. 47–49. Buffer manager 22, associated with user computer 18, receives and stores a predetermined number of media data elements received by the media player, plays the data out sequentially as audio and/or video, and deletes media data elements from buffer 20 as they are played out to maintain approximately the predetermined number of data elements in the user's buffer. *Id.* at col. 10, ll. 53–59, col. 8, ll. 31–34.

B. Illustrative Claims

Independent claims 10 and 19 are illustrative of the claims at issue:

10. A server for distributing streaming media via a data communications medium such as the Internet to at least one user system of at least one user, the streaming media comprising a plurality of sequential media data elements for a digitally encoded audio or video program, said user system being assumed to have a media player for receiving and playing the streaming media on said user system, which is operable to obtain media data elements from said server by transmitting requests to said server to send one or more specified media data elements, said server comprising

at least one data storage device, memory for storing machine-readable executable routines and for providing a working memory area for routines executing on the server, a central processing unit for executing the machine-readable

executable routines, an operating system, at least one connection to the communications medium, and a communications system providing a set of communications protocols for communicating through said at least one connection;

a machine-readable, executable routine containing instructions to cause the server to assign serial identifiers to the sequential media data elements comprising the program;

a machine-readable, executable routine containing instructions to cause the server to receive requests from the user system for one or more media data elements specifying the identifiers of the requested data elements; and

a machine-readable, executable routine containing instructions to cause the server to send media data elements to the user system responsive to said requests, at a rate more rapid than the rate at which said streaming media is played back by a user.

Ex. 1001, col. 13, l. 63–col. 14, l. 28.

19. A non-transitory machine-readable medium on which there has been recorded a computer program for use in operating a computer to prepare streaming media content for transmission by a server wherein said server responds to user requests for media data elements identified by a serial identifier, said program recorded on said non-transitory machine readable medium comprising a routine to store and serially identify sequential data elements comprising said streaming media content, in a format capable of being served to users by said server.

Id. at col. 14, ll. 49–58.

C. References

Petitioners rely on the following references. Pet. 7–10.

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