

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LIMELIGHT NETWORKS, INC.,  
Petitioner,

v.

AKAMAI TECHNOLOGIES, INC.,  
Patent Owner.

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Case IPR2016-01894  
(Patent 7,472,178 B2)

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Record of Oral Hearing  
Held: December 5, 2017

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Before GREGG I. ANDERSON, JENNIFER MEYER CHAGNON, and  
JASON W. MELVIN, *Administrative Patent Judges*.

Case IPR2016-01894  
(Patent 7,472,178 B2)

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The above-entitled matter came on for hearing on Tuesday, December 5, 2017, commencing at 2:10 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

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JUDGE MELVIN: So we'll proceed to the hearing in IPR2016-1894, also between Limelight Networks, petitioner, and Akamai Technologies, patent owner. This is reviewing patent number 7,472,178. We will follow the same procedures as the prior hearing. I understand we have different counsel arguing for patent owner?

MR. BROOKS: Yes, Your Honor, Heath Brooks on behalf of Akamai.

MR. SCHINDLER: Your Honor, you still have me.

JUDGE MELVIN: Excellent. And would you like to reserve ten minutes?

MR. SCHINDLER: Yes, Your Honor, I would like to reserve ten minutes, if I may.

JUDGE MELVIN: Okay. We are ready when you are.

JUDGE ANDERSON: Can I get the hearing room staff to switch the camera off our judges -- there you go.

MR. SCHINDLER: You wanted to see me, I know.

JUDGE ANDERSON: I did.

MR. SCHINDLER: So Your Honor, thank you again for this afternoon. If you would go to, we would like to start on slide 31 of petitioner's slide 31. The first claim term we would like to address is "upload." There appears to be a lot of discussion in patent owner's statement about upload, so we believe this is one of the terms we should start with. And we just put up the term in the context of the claim.

1           If you would go to slide 32, essentially this is what patent  
2 owner is arguing, that we understand that the meaning of the term  
3 upload -- so we first take the position that the patent owner never asks for  
4 a claim construction of the term "upload," but it appears now that they  
5 are asking for that term or whatever -- however they are reading into it.  
6 And that's on 32. That's what we believe their definition of what they are  
7 now asking what upload means.

8           If we go to slide 33, Judge Anderson can you hear me? Is it  
9 okay?

10           JUDGE ANDERSON: (Nodding.)

11           MR. SCHINDLER: Slide 33 is our response to this we believe  
12 it's basically importing limitations and it's narrowing. We believe what  
13 we've posited is slide 34, is basically we believe that the specification  
14 does not define upload. Now, I would like to spend a little time on this  
15 slide. So this slide is going to be in context with, so this is directly from  
16 the spec 6:61 through 7:10. And it's our position that this actually  
17 discloses -- because there appears to be argument that upload can only  
18 mean pushing and not pulling. And it's our position that because of the  
19 spec that appears to argue that upload can also be pulling, that we should  
20 not be reading a limitation of only pushing.

21           Now, how do we get there? So this is talking about the figure.  
22 Let's put up the figure. I would like to in this respect put up Figure 7. So  
23 the reason why it's hard to read, and I apologize, but if you could look on  
24 your patent at Figure 7, what Figure 7 shows you -- and this is important,  
25 so if you look at the term on Figure 7, and that appears strangely out of

1 order, it appears after Figure 4. So what I'm focusing on is the word  
2 "upload via FTP or tape." It's all the way on the left-hand side. You see  
3 content provider 704, 700, between it says upload via FTP or tape.

4 And if you go back to the slide that I had before, 34, this is  
5 actually consistent with what's being described because it's says, first it  
6 talks about -- the first part it talks about FTP client. You see the upload  
7 may be accomplished with any industry standard FTP client. That's  
8 shown in that figure FTP. And then if you go a little bit further down, it  
9 talks about the above technique are merely representative and it talks  
10 about tape. And there's the word CD-R, CD-W [sic] tape. And then it  
11 says yet another alternative is to have a given one of the storage sides  
12 dynamically pulled.

13 So it's our position that this is all within the context of upload.  
14 It's not another embodiment. It's talking about what's going on at the  
15 upload via FTP or tape or possibly pulled. So it's our position that if you  
16 were to go with patent owner's definition of limiting it to just pushing,  
17 you would read out an embodiment that's directly in the spec.

18 If you would go on to 36 and 37, we gave a series of definitions  
19 on upload, upload directly from IEEE and directly stating that.

20 Go to 38. It's our position that if you take our definition of  
21 what upload means, which means merely transfer, we believe there is no  
22 dispute that Speedera does do an upload, and as quoted in our petition  
23 and in our reply. If you go to slide 39, Chaudhri, we take the same  
24 position that if you take our definition, Chaudhri makes it.

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