

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

AKAMAI TECHNOLOGIES, INC.,  
Petitioner,

v.

LIMELIGHT NETWORKS, INC.,  
Patent Owner.

---

Case IPR2016-01011  
Patent 7,715,324

---

**Patent Owner's Response**

## Table of Contents

I.	Introduction .....	1
II.	Summary of the Board’s Findings.....	2
III.	One of Ordinary Skill in the Art Would Not Combine Devanneaux with Chu .....	3
A.	<i>Legal Standard</i> .....	3
B.	<i>The Petition and Board’s Institution Decision Rely on the Assertion That It Would Be Obvious to Combine Devanneaux and Chu.....</i>	7
C.	<i>Implementing the Chu Plug-in Architecture Would Disrupt Normal Edge Server Operations .....</i>	7
D.	<i>Implementing the Chu Plug-in Architecture While Maintaining Normal Edge Server Operations Is Outside of the Skill of a PHOSITA .....</i>	12
E.	<i>Petitioner’s Combination of Devanneaux and Chu is Based on Merely Conclusory Statements.....</i>	16
F.	<i>The Court Cannot Properly Evaluate the Combination of Devanneaux and Chu Because Petitioner Fails to Identify the Differences Between the Claimed Invention and the Prior Art.....</i>	18
IV.	None of the Cited Art Discloses the “protocol attribute selector” of Claims 6, 7, 8, 10 and 11 .....	19
A.	<i>CLAIM CONSTRUCTION – “Protocol Attribute Selector”.....</i>	19
B.	<i>The Cited Art Does Not Disclose the “protocol attribute selector” of Claims 6, 7, 8, 10 and 11.....</i>	23
V.	Dr. Crovella’s Redirect Testimony Should Be Given No Weight.....	26
VI.	Conclusion.....	28

## EXHIBIT LIST

<b>Exhibit</b>	<b>Description</b>
2009	Supplemental Declaration of Kevin Almeroth, Ph.D. (“Dr. Almeroth Supplemental Declaration”)
2010	J. Christner and T. Grevers, <i>Overcoming Transport and Link Capacity Limitations Through WAN Optimization</i> , Cisco Press (June 19, 2008)
2011	Deposition of Mark Crovella, Ph.D. (Jan. 12, 2017)
2012	Order, No. 3:15-cv-720-JAG, Dkt. 179 (E.D. Va. Sept. 2, 2016)
2013	Email from V. Kapadia to trials@uspto.gov (Jan. 12, 2017).

## I. Introduction

Patent Owner, Limelight, Inc. (“Patent Owner”), submits the following Response to the Petition for *Inter Partes* Review (the “Petition”) filed by Akamai Technologies, Inc. (“Petitioner”) regarding Claims 1, 2, 4, 5, 6, 7, 8, 10, and 11 (“Challenged Claims”) of U.S. Patent No. 7,715,324 (“the ’324 Patent”). Akamai has alleged that Claims 1, 2, 5, 6, 7, 8, and 11 are unpatentable under 35 U.S.C. § 103(a) in view of U.S. Patent Publication No. 2007/0156845 (“Devanneaux”), and further in view of U.S. Patent Publication No. 2007/0226375 (“Chu”) (“Ground 1”). (Petition at 14). Additionally, Akamai alleges that claims 4 and 10 are unpatentable under 35 U.S.C. § 103(a) in view of the Devanneaux and Chu, further in view of the publication titled “Transmission Control Protocol, DARPA Internet Program, Protocol Specification” (“RFC793”) (“Ground 2”) (collectively, “Grounds of Rejection”). (*Id.*). The Board instituted *inter partes* review with respect to Grounds 1 and 2. (Paper No. 8 at 35 (“Institution Decision”)).

The Petition and Board’s institution decision hinges on Petitioner’s assertion that it would be obvious to combine Devanneaux and Chu. (*See, e.g.*, Institution Decision at 24, 29-32; *see also* Petition at 20-21, 28-29, 44, 46, 47, 55, 58). However, as explained in detail below, a person having ordinary skill in the art (“PHOSITA”) would not combine these references because inclusion of the plug-in architecture of Chu into the edge server disclosed in Devanneaux would render

the edge server unsatisfactory for its intended purpose. In addition, the inclusion of the Chu plug-in architecture in Devanneaux's edge server would not be a routine or simple substitution because this modification is beyond the skill of a PHOSITA.

Further, as explained by the Supreme Court, "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007), quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). The rules require that "[e]ach petition ... must include ... [a] full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence." 37 C.F.R. § 42.22(a)(2); see also 37 C.F.R. § 42.104(b)(4)-(5). In this case, the Petition included unsupported conclusory statements indicating that the cited references disclose various claim elements and fails to articulate why it would have been obvious to combine the cited references. Accordingly, Petitioner has failed to articulate specific reasoning, based on evidence of record, to support the legal conclusion of obviousness for the Challenged Claims.

## **II. Summary of the Board's Findings**

The Board instituted *inter partes* review with respect to the following grounds:

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.