

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKAMAI TECHNOLOGIES, INC.,
Petitioner,

v.

LIMELIGHT NETWORKS, INC.,
Patent Owner.

Case IPR2017-01306
Patent 8,775,661 B2

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

ANDERSON, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Akamai Technologies, Inc. (“Petitioner”) filed a Petition (“Pet.,” Paper 3) pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–20 (“the challenged claims”) of U.S. Patent No. 8,775,661 B2 (“the ’661 patent,” Ex. 1001), filed January 25, 2013.¹ The Petition is supported by the Declaration of Dr. Samrat Bhattacharjee (“Bhattacharjee Declaration” or “Bhattacharjee Decl.,” Ex. 1002). Limelight Networks, Inc. (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.,” Paper 8). The Preliminary Response is supported by the Declaration of Dr. Kevin C. Almeroth (“Almeroth Declaration” or “Almeroth Decl.,” Ex. 2001).

We have authority under 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim. We institute an *inter partes* review of claims 1–20. The Board has not made a final determination of the patentability of any claim.

A. *Related Proceedings*

Petitioner advises that Patent Owner has asserted the ’661 patent against Akamai in *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, No. 1:16-cv10253 (D. Mass) (“District Court Lawsuit”). Pet. 63; *see also* Paper 6, 2 (Patent Owner’s Mandatory Notices). Petitioner also advises us that Patent Owner also asserted U.S. Patent No. 8,645,539 (“the ’539

¹ The cover page of the ’661 patent alleges it is a continuation of two applications in a chain, the earliest application was a provisional application filed November 5, 2007. Ex. 1001 (60); *see also* Pet. 4 (alleging same priority date). At this time, the parties’ papers do not raise an issue as to whether or not any of the asserted references are prior art.

patent”) against Petitioner in the District Court Lawsuit. Pet. 63. Petitioner also has filed a petition seeking *inter partes* review of claims of the ’539 patent.² *Id.*

B. The Technology

The ’661 patent relates to data delivery over the Internet. Ex. 1001, col. 1, ll. 22–28.

1. Background Technology

Data delivery may be by “traditional origin download and end user originated download.” Ex. 1001, col. 1, ll. 28–30. “Either type of download can be used for content delivery such its [sic] file uploads and downloads or streaming delivery.” *Id.* at col. 1, ll. 30–32.

“In a traditional origin download, a centralized server (such as an origin server), a traditional content delivery network or a traditional cache operates as a source of the content for the end users” Ex. 1001, col. 1, ll. 32–35. “[I]n a user originated download, one end user sources content to another end user.” *Id.* at col. 1, ll. 35–36.

In traditional origin download, a content provider utilizes a content delivery network (CDN) to outsource delivery of its content. *See, e.g.*, Ex. 1001, col. 4, ll. 59–61. By contrast, in user originated download systems, often referred to as first generation peer-to-peer (P2P), an individual end user seeks to find content available from its peers. *Id.* at

² *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, IPR2017-01322.

col. 1, ll. 37–40. Xu³ and Saroiu⁴ describe more specifically how one user sources content to another in “peer-to-peer file sharing applications such as Gnutella and Napster.” Ex. 1005, 156; *see* Ex. 1003, 398.

2. *The '661 Patent (Ex. 1001)*

Figure 1 of the '661 patent is reproduced below.

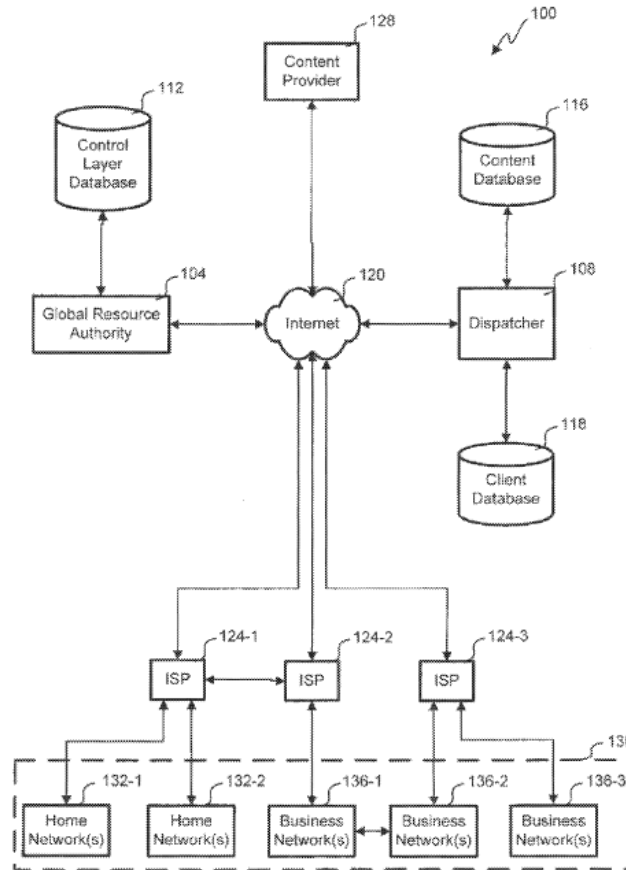


Fig. 1

³ Dongyan Xu et al., *Analysis of a CDN-P2P Hybrid Architecture for Cost-Effective Streaming Media Distribution*, 11 MULTIMEDIA SYS. 383–399 (2006) (“Xu,” Ex. 1003).

⁴ Stefan Saroiu et al., *A Measurement Study of Peer-to-Peer File Sharing Systems*, 4673 PROC. SPIE: MULTIMEDIA COMPUTING AND NETWORKING 156–170 (2002) (“Saroiu,” Ex. 1005).

Figure 1 is a block diagram of one embodiment of a data transfer system described in the '661 patent. Ex. 1001, col. 3, ll. 64–65. The data transfer system shown in Figure 1 “allows end users in home networks 132 or business networks 136 to request and source content downloads from/to other end users directly.” *Id.* at col. 4, ll. 44–46. The end user “is typically a personal computer but may be any user controlled device capable of communicating over the Internet.” *Id.* at col. 4, ll. 47–49. Data transfer system 100 shown in Figure 1 “also allows for traditional origin download between the end user 132 and a content provider 128.” *Id.* at col. 4, ll. 53–56.

A universal resource locator (URL) may reference a content object available from content provider 128 in content database 116. Ex. 1001, col. 4, ll. 56–59, Fig. 1. “In many cases, the content provider 128 contracts with a content delivery network (CDN) to outsource delivery of content objects.” *Id.* at col. 4, ll. 59–61.

C. Illustrative Claims

Of the challenged claims, independent claims 1 and 5 are method claims, and independent claim 13 is a system claim. Claims 2–4 depend directly or indirectly from claim 1. Claims 6–12 depend from claim 5. Claims 14–20 depend from claim 13. Independent claims 1 and 13 are reproduced below.

1. A method for transferring content across a content delivery network (CDN), the method comprising:

receiving a notification of a request, wherein the request comprises:

a client identifier, and

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