

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

SYNKLOUD TECHNOLOGIES, LLC,
Patent Owner.

IPR2019-01655
Patent 9,098,526 B1

Before SALLY C. MEDLEY, JESSICA C. KAISER, and
JOHN R. KENNY, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Unified Patents, LLC (“Petitioner”)¹ filed a Petition for *inter partes* review of claims 1–20 of U.S. Patent No. 9,098,526 B1 (Ex. 1001, “the ’526 patent”). Paper 1 (“Pet.”). Synkcloud Technologies, LLC (“Patent Owner”) filed a Preliminary Response. Paper 9 (“Prelim. Resp.”). Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). Upon consideration of the Petition, the Preliminary Response, and the evidence of record, we determine that Petitioner has established a reasonable likelihood of prevailing with respect to the unpatentability of at least one claim of the ’526 patent. Accordingly, for the reasons that follow, we institute an *inter partes* review of claims 1–20 of the ’526 patent.

A. Related Matters

Petitioner indicates that the ’526 patent is the subject of the following court proceeding: *Synkcloud Technologies, LLC v. HP Inc.*, Case No. 1-19-cv-01360 (D. Del. filed July 22, 2019). Pet. 2 (Mandatory Notices).²

¹ Petitioner filed an Updated Mandatory Notice indicating that the name of Petitioner has changed from Unified Patents Inc., to Unified Patents, LLC. Paper 12, 1.

² Petitioner also lists *Synkcloud Technologies, LLC v. BLU Products, Inc.*, Case No. 1-19-cv-00553 (D. Del. filed Mar. 22, 2019), which, according to Petitioner, asserted the ’526 patent and related patents and was dismissed without prejudice on June 19, 2019. Pet. 2 (Mandatory Notices).

Petitioner also indicates the following court proceedings as “asserting continuation patents sharing [a] common specification with the ’526 Patent”:
Synkcloud Technologies, LLC v. Dropbox, Inc., Case No. 6:19-cv-00526 (W.D. Tex. filed Sept. 6, 2019), and *Synkcloud Technologies, LLC v. Adobe Inc.*, Case No. 6:19-cv-00527 (W.D. Tex. filed Sept. 6, 2019). *Id.* at 1–2.

The ’526 patent also is the subject of IPR2020-00316, for which a decision whether to institute *inter partes* review has not yet been rendered. *Microsoft Corporation and HP Inc. v. Synkcloud Technologies, LLC*, IPR2020-00316 (“IPR316”) (PTAB Jan. 20, 2020). In IPR316, Microsoft Corporation (“Microsoft”) and HP Inc. (“HP”) filed a petition challenging claims 1–20 based on prior art not asserted in the instant Petition. IPR316, Paper 1, 5.³

B. The ’526 Patent

The Specification of the ’526 patent describes how a wireless device may use external storage provided by a storage server. Ex. 1001, 1:23–24. The ’526 patent aims to address the lack of storage capacity faced by users on their wireless devices by allowing a wireless device to use an external server for storing and retrieving data. *Id.* at 2:29–37, 5:1–41. The external storage system of the server may be partitioned by dividing it into multiple small volumes of storage space, each of which may be exclusively assigned to and used by a user of a specific wireless device. *Id.* at 4:1–31.

³ Neither party notified the Board of the IPR316 proceeding. The parties are reminded that within 21 days of a change of information listed in mandatory notices, that they must update such information. 37 C.F.R. § 42.8.

One embodiment describes a “wireless out-band download” approach for downloading data from a remote location to an assigned storage volume. *Id.* at 2:8–10, 2:50–53, 5:1–30, Fig. 3.

Figure 3 is illustrative and is reproduced below.

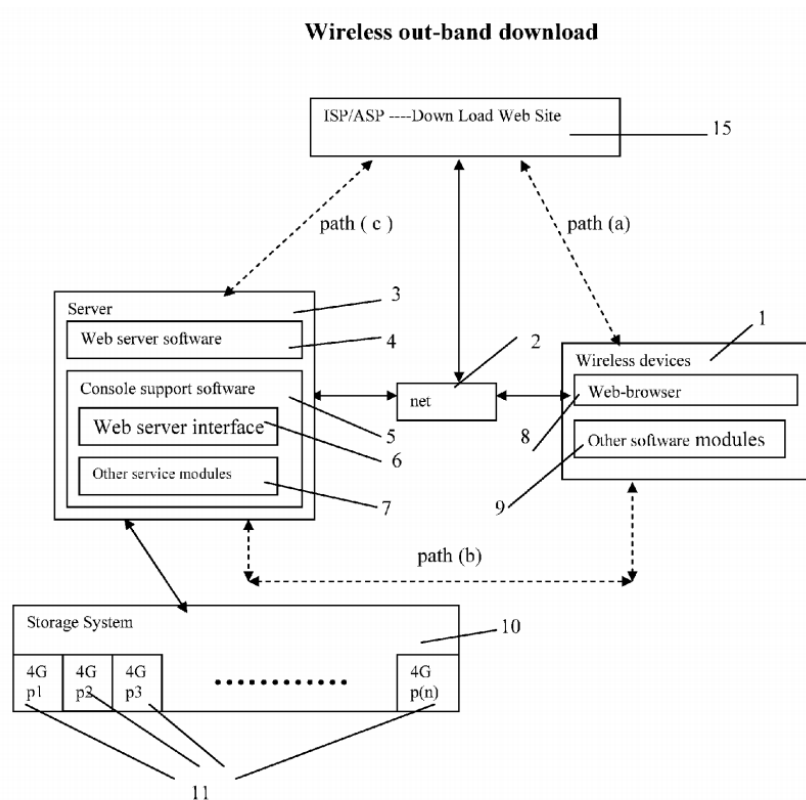


Fig. 3

Figure 3 shows a “wireless out-band download” approach, which includes a sequence of steps for downloading data from a remote web site server 15 into an assigned storage volume 11 of external storage system 10 on server 3. *See id.* at 2:8–10, 2:50–53, 5:1–30. First, the user of wireless device 1 may access remote web server site 15 via web-browser 8 to obtain information about the data for downloading (e.g., data name) via path (a). *Id.* at 5:8–12. Second, other software modules 9 of wireless device 1 may

obtain the download information for the data, which becomes available in cached web-pages on wireless device 1. *Id.* at 5:13–17. Third, the other software modules 9 of wireless device 1 may send obtained download information to other service modules 7 of storage server 3 via path (b). *Id.* at 5:18–20. Fourth, other service modules 7 may send a web download request to remote web site server 15 via path (c) based on the obtained download information and receive the downloaded data streams from remote web site server 15. *Id.* at 5:21–26. Lastly, other service modules 7 may write (i.e., store) the data streams to assigned storage volume 11 in server 3 for wireless device 1. *Id.* at 5:27–30.

The '526 patent also describes retrieving data from an assigned storage volume. *Id.* at 5:31–41. In one embodiment, the user may use the wireless device's web-browser (with embedded video or music functionality) to retrieve and play multimedia data files already stored in the assigned storage volume on the server. *Id.* at 5:33–37. In another embodiment, the wireless device may retrieve data from the file system of the assigned storage volume on the server. *Id.* at 5:38–41.

C. Illustrative Claim

Petitioner challenges claims 1–20 of the '526 patent. Claims 1 and 11 are independent claims, and claims 2–10 and 12–20 depend therefrom, respectively. Claim 1 is reproduced below, which includes changes made per a Certificate of Correction.

1. A wireless device comprising:
 - at least one cache storage, one wireless interface, and program code configured to cause the wireless device to:
 - establish a wireless link for the wireless device access to a storage space of a predefined capacity assigned

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