

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CODE200, UAB; TESOLT, UAB; METACLUSTER LT, UAB;
OXYSALES, UAB; AND CORETECH LT, UAB,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2021-01492¹
Patent 10,257,319 B2

Before THOMAS L. GIANNETTI, SHEILA F. McSHANE, and
RUSSELL E. CASS, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
Granting Motion to Seal
35 U.S.C. § 318(a); 37 C.F.R. § 42.14

¹ Joined by the petitioners in IPR2022-00861.

I. INTRODUCTION

On September 3, 2021, NetNut Ltd. (NetNut¹) filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1, 2, 12, 14, 15, 17–19, and 21–29 (the “challenged claims”) of U.S. Patent No. 10,257,319 B2 (Ex. 1001, “the ’319 patent”). Patent Owner, Bright Data Ltd.,² filed a Preliminary Response (Paper 9, “Prelim. Resp.”).

We determined that NetNut’s Petition established a reasonable likelihood that it would prevail with respect to at least one claim, and on March 21, 2022, we instituted *inter partes* review as to all challenged claims of the ’319 patent and all grounds of unpatentability asserted in the Petition. Paper 12 (“Institution Dec.”).

On April 18, 2022, Code200, UAB; Teso LT, UAB; Metacluster LT, UAB; Oxysales, UAB; and coretech It, UAB (collectively, “Petitioner”)³ filed a “substantially identical” petition challenging the same claims of the ’319 patent on the same grounds as the Petition filed by NetNut, accompanied by a request for joinder to this proceeding. IPR2022-00861 Papers 1, 7.

On May 24, 2022, NetNut and Patent Owner submitted a joint motion to terminate this proceeding as to NetNut, as a result of a settlement. Paper 17. On May 27, 2022, we granted the motion and terminated NetNut as a party to this proceeding but did not terminate the proceeding. Paper 20.

² Bright Data Ltd. was formerly known as Luminati Networks, Ltd. See Pet. 1; Prelim. Resp. 11 n.8.

³ Our references to “Petitioner” also include NetNut prior to its termination as a party.

On October 19, 2022, we instituted *inter partes* review in IPR2022-00861 and granted the joinder request. IPR2022-00861 Paper 19.⁴

Following institution of this proceeding, Patent Owner filed a Response. Paper 31 (“PO Resp.”), Petitioner filed a Reply (Paper 40, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 41, “PO Sur-reply”).

An oral hearing was held on June 9, 2023. A transcript of that hearing is part of the record. Paper 51 (“Hearing Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This decision is a Final Written Decision issued pursuant to 35 U.S.C. § 318(a). For the reasons we discuss below, we determine that Petitioner has proven by a preponderance of the evidence that claims 1, 2, 12, 14, 15, 17–19, and 21–29 of the ’319 patent are unpatentable.

II. BACKGROUND

A. *Related Matters*

The parties identify several district court proceedings involving the ’319 patent and a related patent, U.S. Patent No. 10,484,510 (“the ’510 patent”), including *Bright Data Ltd. v. NetNut Ltd.*, No. 2:21-cv-225 (E.D. Tex.) (the “*NetNut* Litigation”);⁵ and *Luminati Networks Ltd. v. Teso LT, UAB, et al.*, No. 2:19-cv-395 (E.D. Tex.) (the “*Teso* Litigation”). Pet. 2–3; Paper 4, 1–2.

⁴ On August 23, 2022, the USPTO Director, *sua sponte*, vacated our initial decision denying *inter partes* review in IPR2022-00861 and remanded the case to the Board. See IPR2022-00861 Paper 18.

⁵ Patent Owner alternatively refers to this case as the “*NetNut II* Litigation.” See Prelim. Resp. 25.

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The parties also identify a number of district court actions involving patents related to the '319 patent. *See* Pet. 3–4; Paper 4, 2–3.

The '319 patent was previously before the Board in IPR2020-01266 (institution denied). Pet. 4; Paper 4, 1. The '510 patent is involved in IPR2021-01493 (pending), and was previously before the Board in IPR2020-01358 (institution denied). Pet. 5; Paper 4, 1. The parties also identify a number of other USPTO proceedings involving patents related to the '319 patent. *See* Pet. 4–5; Paper 4, 2.

In addition, Patent Owner identifies *ex parte* reexaminations requested for the '319 and '510 patents, respectively, Control No. 90/014,875 and Control No. 90/014,876. Paper 6, 1–2; Prelim. Resp. 17. Those reexamination proceedings have been stayed by the Board. IPR2021-01492, Paper 14; IPR2021-01493, Paper 13.

B. Real Parties-in-Interest

The Petition filed by NetNut identifies NetNut Ltd. as the only real party-in-interest. Pet. 2. The petition in IPR2022-00861 identifies Code200, UAB; Teso LT, UAB; Metacluster LT, UAB; Oxysales, UAB; and coretech lt, UAB as the real parties-in-interest. IPR2022-00861 Paper 1, 3. Patent Owner identifies Bright Data Ltd. as the only real party-in-interest. Paper 4, 1.

C. The '319 Patent (Ex. 1001)

The '319 patent is titled “System Providing Faster and More Efficient Data Communication.” Ex. 1001, (54). According to the '319 patent, there is a “need for a new method of data transfer that is fast for the consumer, cheap for the content distributor and does not require infrastructure investment for ISPs.” *Id.* at 1:54–56. The patent states that other “attempts

at making the Internet faster for the consumer and cheaper for the broadcaster,” such as proxy servers and peer-to-peer file sharing, have various shortcomings. *Id.* at 1:58–59; 2:24–2:32; 2:59–3:3.

The '319 patent describes a system and method “for faster and more efficient data communication within a communication network,” such as in the network illustrated in Figure 3, reproduced below (*id.* at 4:41–44):

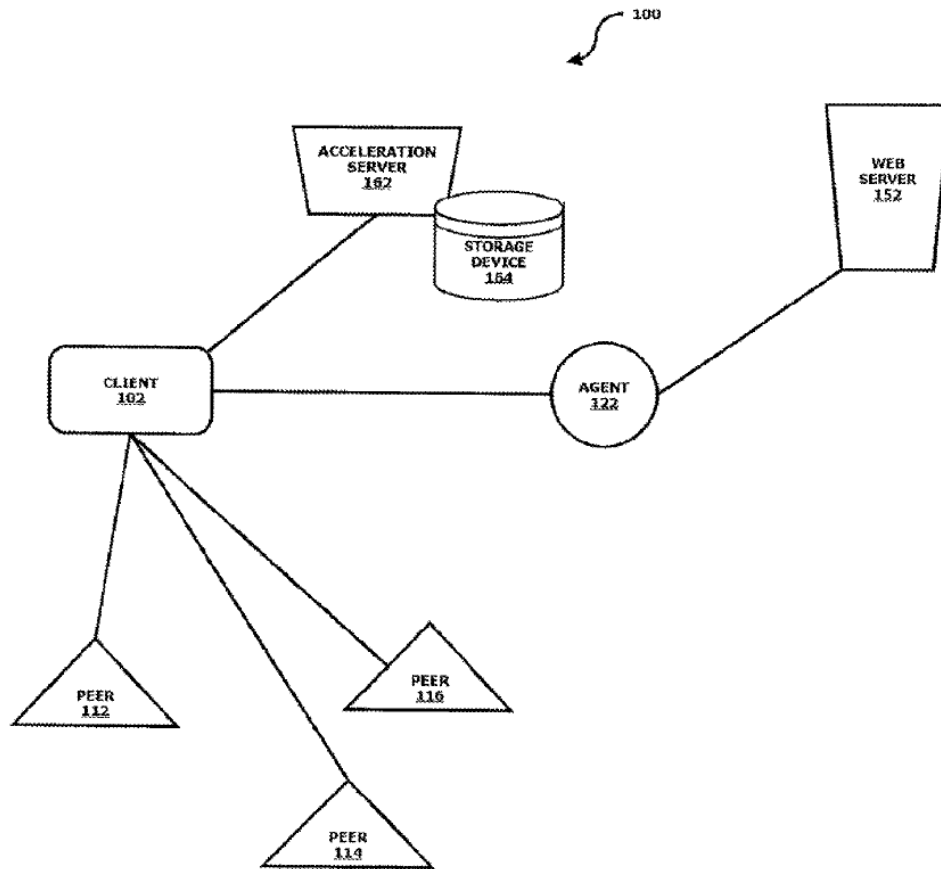


FIG. 3

Figure 3 is a schematic diagram depicting communication network 100 including a number of communication devices. *Id.* at 4:43–45. Due to the functionality provided by software stored within each communication

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