

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
Petitioner,

v.

BLACK HILLS MEDIA, LLC
Patent Owner.

Case No. To Be Assigned
Patent No. 8,045,952

**PETITION FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 8,045,952
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *et seq.***

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Ex. 1001	U.S. Patent No. 8,045,952
Ex. 1002	File History for U.S. Patent No. 8,045,952
Ex. 1003	U.S. Patent No. 6,502,194 to Berman <i>et al.</i>
Ex. 1004	U.S. Patent No. 6,199,076 to Logan <i>et al.</i>
Ex. 1005	U.S. Provisional Patent Application No. 60/233,741 by Lau <i>et al.</i>
Ex. 1006	U.S. Patent No. 8,281,001 to Busam <i>et al.</i>
Ex. 1007	Decision on Institution of <i>Inter Partes</i> Review Pursuant to 37 C.F.R. § 42.108 in <i>Yamaha Corp. of America v. Black Hills Media, LLC</i> , Case IPR2013-00593 (March 20, 2014)
Ex. 1008	Intentionally Omitted
Ex. 1009	Intentionally Omitted
Ex. 1010	Intentionally Omitted
Ex. 1011	Declaration of Kevin Jeffay, Ph.D.
Ex. 1012	<i>Curriculum vitae</i> of Kevin Jeffay, Ph.D.
Ex. 1013	U.S. Patent No. 5,168,481 to Culbertson <i>et al.</i>
Ex. 1014	U.S. Patent No. 5,616,876 to Cluts
Ex. 1015	Scot Hacker, “MP3: The Definitive Guide by Scot Hacker” March, 2000 (Springer)

I. MANDATORY NOTICES (37 C.F.R. § 42.8(A)(1))

A. Real Party-In-Interest (37 C.F.R. § 42.8(b)(1))

The real parties in interest for this Petition for *Inter Partes* Review (“IPR”) are Samsung Electronics Co., Ltd.; Samsung Electronics America, Inc.; and Samsung Telecommunications America, LLC.

B. Related Matters (37 C.F.R. § 42.8(b)(2))

U.S. Patent No. 8,045,952 (“the ‘952 Patent”) is currently the subject of *inter partes* review proceeding IPR2013-00593 that was filed on September 18, 2013, by Yamaha Corporation of America (“the ‘593 IPR Petitioner”). *Yamaha Corp. of America v. Black Hills Media, LLC*, Case IPR2013-00593 (*instituted* March 20, 2014). After a preliminary response filed on December 26, 2013, by Black Hills Media, LLC, the owner of the ‘952 Patent, the Board on March 20, 2014, instituted *inter partes* review of claims 9, 10, 13 and 14 of the ‘952 Patent. Decision on Institution of *Inter Partes* Review Pursuant to 37 C.F.R. § 42.108 in *Yamaha Corp. of America v. Black Hills Media, LLC*, Case IPR2013-00593 (March 20, 2014). On April 18, 2014, the Board denied the ‘952 IPR Petitioner’s request for rehearing of the Board’s denial of some of the grounds asserted in the Petition. Decision dated April 18, 2014, *Yamaha Corp. of America v. Black Hills Media, LLC*, Case IPR2013-00593 (*instituted* March 20, 2014).

The ‘952 Patent is currently also the subject of litigation brought by the patent owner Black Hills Media, LLC, against multiple defendants in the Eastern

District of Texas, the District of Delaware and the Central District of California, including the action captioned *Black Hills Media, LLC v. Samsung Elecs. Co., Ltd. et al.* (Civil Action No. 2-13-cv-00379 (E.D. Tex.); the “Samsung Litigation”). Other defendants in the litigations include LG Electronics, Inc.; LG Electronics U.S.A, Inc.; LG Electronics Mobilecomm U.S.A., Inc.; Toshiba Corp.; Toshiba America Information Systems, Inc.; Panasonic Corp.; Panasonic Corp. of North America; Yamaha Corporation of America; Sonos, Inc.; Pioneer Corp.; and Pioneer Electronics (USA) Inc. The ‘952 Patent is also the subject of proceedings before the U.S. International Trade Commission, captioned *Certain Digital Media Devices, Including Televisions, Blu-Ray Disc Players, Home Theater Systems, Tablets and Mobile Phones, Components Thereof and Associated Software*, Inv. No. 337-TA-882.

C. Lead and Backup Counsel (37 C.F.R. § 42.8(b)(3))

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D. Service Information (37 C.F.R. § 42.8(b)(4))

Service information for lead and back-up counsel is provided in the designation of lead and back-up counsel above.

II. FEES (37 C.F.R. § 42.103)

The undersigned authorizes (a) the Office to charge \$23,000 (\$9,000 request fee; and \$14,000 post-institution fee) to Deposit Account No. 50-0740 for the fees set forth in 37 C.F.R. § 42.15(a) for this Petition; and (b) payment for any additional fees that might be due in connection with this Petition to be charged to the above referenced Deposit Account.

III. REQUIREMENTS FOR INTER PARTES REVIEW UNDER 37 C.F.R. § 42.104

A. Grounds for Standing (37 C.F.R. § 42.104(a))

Pursuant to 37 C.F.R. § 42.104(a), Petitioner certifies that the ‘952 Patent is available for *inter partes* review and that Petitioner is not barred or estopped from requesting an *inter partes* review challenging the ‘952 Patent on the grounds identified in the present Petition.

B. Citation of Prior Art

Exhibit	Reference	Filing Date	Availability as Prior Art

Ex. 1003	U.S. Patent No. 6,502,194 to Berman <i>et al.</i> (“Berman”)	April 16, 1999	35 U.S.C. § 102(e)
Ex. 1004	U.S. Patent No. 6,199,076 to Logan <i>et al.</i> (“Logan”)	October 2, 1996	35 U.S.C. § 102(e)
Ex. 1005	U.S. Provisional Patent Application No. 60/233,741 by Lau <i>et al.</i> (“Lau”)	September 19, 2000	35 U.S.C. § 102(e)

C. Claims and Statutory Grounds (37 C.F.R. §§ 42.104(b)(1) & (b)(2))

The relief requested by Petitioner is that claims 1-4, 9-12 and 14 of the ‘952 Patent be found unpatentable and cancelled from the ‘952 Patent on the following grounds:

Ground	Claims	Basis
I	9, 10 and 14	Anticipated under 35 U.S.C. § 102(e) by Berman
II	1, 2 and 3	Obvious under 35 U.S.C. § 103(a) in view of Berman
III	4, 11 and 12	Obvious under 35 U.S.C. § 103(a) in view of the combination of Berman and Lau
IV	1, 2, 3, 9, 10, 11 and 14	Obvious under 35 U.S.C. § 103(a) in view

		of Logan
V	4 and 12	Obvious under 35 U.S.C. § 103(a) in view of the combination of Logan and Lau

D. Claim Construction (37 C.F.R. § 42.104(b)(3)) and Effective Filing Date

1. Claim Construction

A claim subject to IPR is given its “broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.100(b).

Each of independent claims 1 and 9 recites “playlist,” and respectively recites “assigning a playlist to an electronic device” and “a playlist assigned to the electronic device.” The Board, in IPR2013-00593, construed “playlist” and “a playlist assigned to the electronic device,” as recited in claim 9, to respectively mean “a list of audio files or URLs of where the audio files were retrieved from” and “a list of audio files or URLs of where the audio files were retrieved from directed to a particular device selected by a user.” Ex. 1007, pp. 12-14. Petitioner submits that, for the purposes of the present proceeding, these constructions should apply to the meanings of these terms in the current Petition, as well including URLs of where the audio files *can be* retrieved from within the scope of the type of items in a “playlist.” Ex. 1001, 22:48-50; Jeffay Dec. ¶ 29. Petitioner also submits that term “playlist” as recited in claim 1 should be construed in the same manner as

in claim 9. Petitioner further submits that the term “assigning a playlist to an electronic device” as recited in claim 1 should be construed, based on the Board’s constructions in IPR2013-00593, to mean “directing to a particular device selected by the user a list of audio files or URLs where the audio files were retrieved from,” given the substantial similarity in language between this term in claim 1 and the term “a playlist assigned to the electronic device” in claim 9 as construed by the Board.

Claim 9 recites “wherein ones of the plurality of songs are not stored on the electronic device.” In IPR2013-00593, the Board construed this phrase to mean “wherein at least one of the plurality of songs is not stored on the electronic device.” Ex. 1007, pp. 14-15. Petitioner submits that, for the purposes of the present proceeding, this construction should apply to the meaning of this term in the current Petition as well.

2. Effective Filing Date

The ‘952 Patent is a continuation of U.S. Patent Application No. 09/805,470 (filed Mar. 12, 2001) (“the ’470 application”), which is a continuation-in-part of U.S. Patent Application No. 09/096,703 (filed Jun. 12, 1998) (“the ’703 application”), and which claims the benefit of U.S. Provisional Application No. 60/246,842 (filed Nov. 8, 2000) (“the ’842 provisional application”). The ‘703

application also claims the benefit of U.S. Provisional Patent Application No. 60/072,127 (filed Jan. 22, 1998) (“the ‘127 provisional application”).

Each of the independent claims of the ‘952 Patent recites a “playlist identifying a plurality of songs.” However, playlists identifying a plurality of songs were first disclosed in the chain of applications leading to the ‘952 Patent in the ‘842 provisional application, which was filed on November 8, 2000. Accordingly, the earliest possible priority date of the claims of the ‘952 Patent is November 8, 2000.

E. Person of Ordinary Skill in the Art

A person of ordinary skill in the art of the ‘952 Patent at the time of the alleged invention (“POSA”) would typically have had at least a B.S. degree in electrical engineering, computer engineering or computer science and approximately two years of professional experience with computer networking and multimedia technologies, or the equivalent. Jeffay Dec. ¶ 4.

F. Unpatentability of the Construed Claims (37 C.F.R. § 42.104(b)(4))

An explanation of how claims 1-4, 9-12 and 14 of the ‘952 Patent are unpatentable under the statutory ground(s) identified above, is provided in Section V below.

G. Supporting Evidence (37 C.F.R. § 42.104(b)(5))

The exhibit numbers of the supporting evidence relied upon to support the challenge and the relevance of the evidence to the challenge raised, including identifying specific portions of the evidence that support the challenge, are provided below in the form of explanatory text and claim charts. An Exhibit List with the exhibit numbers and a brief description of each exhibit is set forth above.

IV. SUMMARY OF THE ‘952 PATENT

A. Overview of the ‘952 Patent

The ‘952 Patent discloses a network-enabled audio device for listening to a variety of audio sources. Ex. 1001, 2:15-18. With a network connection, software on a personal computer (“PC”) can be used to assign playlists of songs to the network-enabled audio device. Ex. 1001, 16:29-37. The network-enabled audio device can include Internet Personal Audio Network (“IPAN”) client software, and a PC client that is in communication with the network-enabled audio device may be used to add songs or URLs corresponding to songs to a playlist on the network-enabled audio device. Ex. 1001, 21:40-65, 22:9-29 and Fig. 15. Further, the user can access IPAN software running on a server to assign playlists to the user’s different network-enabled audio devices. Ex. 1001, 22:36-48.

Additionally, the IPAN software can identify and check whether certain songs on the playlist of the network-enabled audio device are missing on that device. Ex. 1001, 28:20-30. If the IPAN software determines that another device

accessible to the user has one or more of the missing songs, then the software provides the URLs where the songs are located to the network-enabled audio device. Ex. 1001, 28:31-34. The network-enabled audio device downloads these missing songs from the URLs provided by the server. Ex. 1001, 28:35-38. If the device is unable to accomplish this download, then the IPAN software can instead obtain the song on behalf of the network-enabled audio device and download it to the network-enabled audio device during a connection at a later time. Ex. 1001, 28:44-49.

Figure 15 of the '952 Patent below is a block diagram of the configuration between network-enabled audio devices and a stereo website. *Id.* 6:4-6. Figure 15 illustrates two network-enabled audio devices (1510 and 1520) connected to IPAN server site 1104. *Id.* 41:40-43. Storage spaces (1512 and 1522) of network-enabled audio devices (1510 and 1520) are used to store IPAN software 1526, playlist (1528 or 1530), and associate URLs and songs within the playlist. *Id.* 21:43-57. Server site 1104 includes IPAN software 1433 and playlists (1528 and 1530). *Id.* 21:52-57.

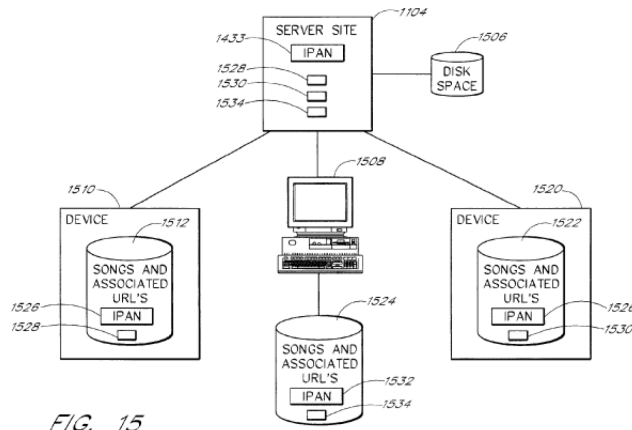
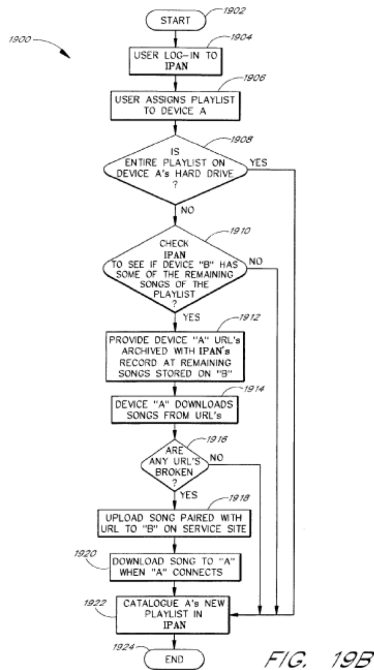


Figure 19B from the '952 Patent, below, shows the process for assigning a playlist to a device. Ex. 1001, 6:60-61. At step 1906, a user assigns a playlist to a first device 1510. *Id.* 28:14-16, Fig. 19B. The system determines whether all of the songs on the playlist are stored on the hard drive of the first device 1510. *Id.* 28:20-22. If any (or all) of the songs are missing from the first device 1510, IPAN 1433 forms a list of the remaining songs and checks the hard drive of second device 1520 to determine if any of the remaining songs may be found on that device. *Id.* 28:24-30. In an embodiment, if any of the remaining songs are found on second device 1520, then IPAN 1433 will provide first device 1510 with URLs for those songs, and first device 1510 will attempt to download the songs from second device 1520. *Id.* 28:30-43.



B. Prosecution History Summary of the ‘952 Patent

The ‘952 Patent was filed on November 27, 2006, as application number 11/563,227 (“the ‘227 application”). As described above, the ‘952 Patent claims the benefit of the filing date of a number of applications, including the ‘470 application, the ‘703 application, the ‘842 provisional application, and the ‘127 provisional application. However, as also discussed above, the earliest possible priority date of any of the claims of the ‘952 Patent is November 8, 2000.

On February 2, 2011, the Examiner of the ‘227 application issued an Office Action rejecting all of the claims for nonstatutory double patenting based upon the applicants’ co-pending U.S. Patent Application No. 11/563,232 (“the ‘232 application”) and the ‘470 application. Ex. 1002, pp. 217-22. In their response on

April 4, 2011, the applicants filed a terminal disclaimer with respect to the '232 application and indicated that the '470 application had been abandoned. *Id.* pp. 235, 240-41. The Examiner then issued a Notice of Allowance on June 29, 2011. Ex. 1002, pp. 244-50. The applicants then filed a request for continued examination in view of an amendment to the title of the application. *Id.* pp. 265-70. The Examiner issued another Notice of Allowance on August 30, 2011. *Id.* pp. 286-92. The '952 Patent issued on October 25, 2011.

V. THERE IS A REASONABLE LIKELIHOOD THAT PETITIONER WILL PREVAIL WITH RESPECT TO AT LEAST ONE CLAIM OF THE '952 PATENT

The subject matter of claims 1-4, 9-12 and 14 of the '952 Patent is disclosed and taught in the prior art as explained below. As set forth in §§ V.A.-V.F., the references and combinations utilized in Grounds I–V anticipate or render obvious each of claims 1-4, 9-12 and 14 pursuant to 35 U.S.C. §§ 102 or 103, and provide a reasonable likelihood that the Petitioner will prevail on at least one claim. 35 U.S.C. § 314(a).

A. Prior Art

Paragraphs 18-22 of the Jeffay Declaration, Ex. 1011, describe the state of the art regarding online and mobile audio services in the 1999-2000 time frame. As Professor Jeffay explains, the concept of using a “playlist” to represent a list of songs or audio files so that users could select, play, and manipulate various songs

was well known in the art by the mid to late 1990s. For example, playlists have been the subject of U.S. patents since at least 1989. In the early 1990s, companies such as Microsoft, Apple, and Borland, among others, were designing graphical user interfaces (GUIs) to allow users to select and play music transmitted, for example, from a central database in a network.

For example, Ex. 1013 shows that in the context of radio broadcast stations, it was known to compile a scheduled playlist from various music selections and pre-recorded materials having known durations or runtimes. *See, e.g.*, Ex. 1013, 1:15-18. Culbertson sought to provide “an automated digital broadcast system which is capable of reliable operation for long periods of time without human assistance.” *See, e.g., id.* 1:44-51. In one embodiment, Culbertson describes using compact disc players to “sequentially play a predetermined list of musical selections and commercial or informational messages.” *See, e.g., id.* 1:50-51. Culbertson also taught using a display device to “display a portion of the information contained in the playlist to allow an operator to obtain information about the music or commercial selection being played as well as those selections that will be played subsequently.” *See, e.g., id.* 2:51-55. Culbertson further disclosed that audio playback of the musical selections from the playlist could be started and stopped according to a schedule. *See id.* 1:53-60.

Exhibit 1014 describes a system implemented in an interactive network that would allow consumers to select “playlists” in the form of a predetermined collection of songs, and thereafter review the contents of the playlists, select songs in the playlist, build and create playlists, and display general information associated with the currently playing album or song. Ex. 1014, 4:38-54, 11:40-43, 12:55-65, 13:24-27, 13:50-62, 15:14-25.

Similarly, generally available materials taught the typical user how to use commonly available tools to compile playlists through a GUI on a PC and play music transmitted over a network. *See, e.g.*, Ex. 1015. Hacker explains, “One of the most enjoyable aspects of working with MP3 players is the fact that they let you create custom ‘playlists,’ which are simply lists of audio files living anywhere on your system and grouped together under a single name. . . . Behind the scenes, a playlist is just a plain text file naming the full paths to the selected songs. When viewed through the MP3 player’s interface, playlists are often attractive and highly customizable entities that let you rearrange, sort and skip around through vast collections with ease. Playlists for players that can handle streaming or broadcast MP3 can also store URL’s to your favorite broadcast sites.” *Id.* 56. Thus, as of 1999-2000, the concept of implementing playlists on a network-enabled audio device to select, manage, and manipulate audio content such as songs was well known in the art.

Accordingly, as made clear by the above discussion of the state of the art, and the discussion of the prior art below, by November 2000, the purported inventions of the '952 Patent were well known.

1. U.S. Patent No. 6,502,194 to Berman *et al.* (Ex. 1003)

Berman was filed on April 16, 1999, and issued on December 31, 2002. It therefore qualifies as prior art to the '952 Patent under 35 U.S.C. § 102(e). Berman was cited during prosecution of the '952 Patent, but was not relied on by the Examiner in connection with rejections of claims of the application underlying the '952 Patent.

Berman is directed to a playback unit that retrieves audio data from a remote server and plays songs that have been selected by the user. Ex. 1003, Abstract. An embodiment of Berman's playback unit is depicted in Figure 1, which is reproduced below.

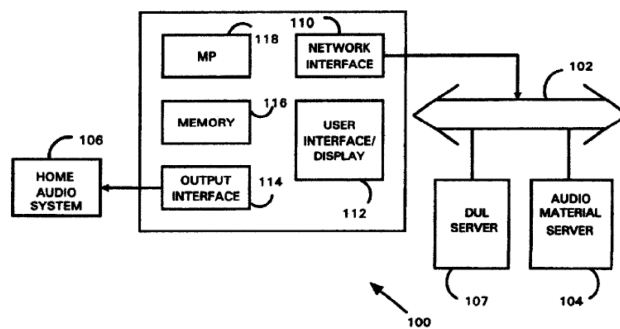
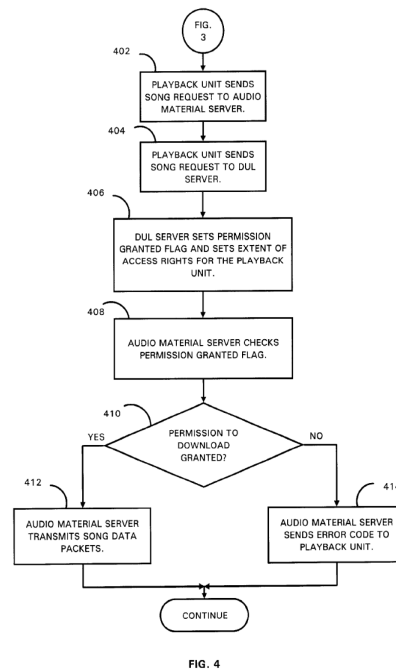
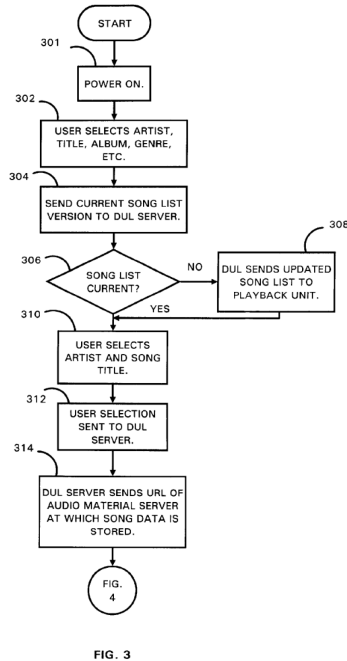


FIG. 1

Figure 1 is a block diagram of Berman's playback unit 100. Ex. 1003, 4:17-19. Playback unit 100 receives audio material from audio material server 104, and

access rights to this material are controlled by directory and user list (“DUL”) server 107. *Id.* 4:51-43, 4:62-65. Playback unit 100 includes network interface 110 that facilitates communication with the servers over the Internet. *Id.* 5:11-14. Memory 116 temporarily stores audio for playback and processing. *Id.* 6:6-8. In this connection, the playback unit does not include non-volatile memory and cannot permanently store songs. *Id.* 6:21-32. Further, the playback unit’s volatile memory will preferably store a song (although not necessarily an entire song) in each buffer section. *Id.* 11:30-32, 12:23-30.

The operation of the playback unit is illustrated in Figures 3 and 4, which are reproduced below:



Figures 3 and 4 are processing flow diagrams depicting the steps executed to request and receive audio material. Ex. 1003, 4:22-25. At step 302, the user

selects a music category or type of song. *Id.* 6:54-7:4. The playback unit then contacts the DUL server to confirm that the playback unit's song list is up to date. *Id.* 7:4-6, Fig. 3 (step 304). If the song list is not up to date, the DUL server will send an updated song list to the device. *Id.* 7:14-19, Fig. 3 (steps 306 and 308). The user selects a song from the song list. *Id.* 7:22-24, Fig. 3 (steps 310 and 312). The DUL then sends playback unit 100 the network address or URL for the requested song. *Id.* 7:30-41, Fig. 3 (step 314). Playback unit 100 then uses that URL to obtain the requested sound file from the appropriate audio server. *Id.* 7:41-45, 8:32-34, Fig. 4 (steps 402 and 412). An error checking mechanism may be used to confirm that an updated song list is received by the correct playback unit. *Id.* 10:23-28.

In particular, and with respect to claims 1 and 9, Berman discloses that the DUL server assigns a playlist to the playback unit, and that the playback unit receives the playlist. *See, e.g.,* Ex. 1003, Fig. 3 (step 308).

Further, with respect to claim 1, Berman discloses determining whether songs on the playlist are not stored on the playback unit. Berman discloses portions of some songs are stored in the memory of a playback unit, for example, to decrease latency time. Ex. 1003, 8:56-61, 13:10-21, 15:30-39, Fig. 14 (arrow 4). But some songs will not be pre-buffered in this way. Jeffay Dec. ¶ 37. Berman discloses that when a user initiates a "New Track" event to, for example, skip a

track or jump to another track in a song list, the microprocessor of the playback unit will “determine[] if the next track is in the memory buffer of the playback unit.” Ex. 1003, 8:63-9:18. “If the next track is not in the buffer, a negative outcome at decision box 506 [in Figure 5], then the microprocessor requests the missing track from the appropriate audio material server.” *Id.* 9:18-21, Fig. 5 (box 508).

Further with respect to claims 1 and 9, Berman discloses that the DUL server provides the playback unit with information enabling the playback unit to obtain a song from a remote source, because the DUL server provides to the playback unit a URL at which the playback unit may find and obtain the song. Ex. 1003, 7:30-44. Jeffay Dec. ¶ 38.

With respect to claims 2-4 and 10-12, Berman discloses that the DUL server associates a playback unit with “one or more audio material servers” at which the playback unit may find a song by providing the playback unit with the URL for the appropriate server, and further through the use of a user identification code and a password. Ex. 1003, 4:47-5:4, 7:30-45, Figs. 3 and 4, 7:55-66. Jeffay Dec. ¶ 39.

With respect to claim 14, Berman discloses that the network connecting the DUL server, the playback unit, and other servers from which the playback unit can obtain songs is a personal audio network, because that network enables the

playback unit to obtain personal audio content for the user of the playback unit.

Jeffay Dec. ¶ 40.

2. U.S. Patent No. 6,199,076 to Logan *et al.* (Ex. 1004)

Logan was filed on October 2, 1996, and issued on March 6, 2001. It therefore qualifies as prior art to the '952 Patent under 35 U.S.C. § 102(e). Logan was cited during prosecution of the '952 Patent, but was not relied on by the Examiner in connection with rejections of claims of the application underlying the '952 Patent.

Logan discloses an information distribution system that allows player devices to play back audio program segments, such as music. Ex. 1004, 2:6-43, 5:60-65. The audio player plays back the audio program segment files in accordance with a schedule file, which is created in the first instance by a host server, which develops and periodically transmits the schedule file to the player. Ex. 1004, 2:47-50, 7:1-13. The schedule file consists of a sequence of program segment identification numbers, which determines the sequence of events that occur during playback. Ex. 1004, 7:1-13, 8:39-41, 12:3-15, 17:59-61 and Fig. 4. Logan also discloses that the player is capable of storing and reproducing audio programming material, including music files. *E.g., id.* 4:38-41, 5:13-17, 5:60-65. A POSA would understand that Logan's session schedule file could identify an order of program segments that are songs, and, as discussed below, Logan provides

the player with information, including a URL associated with each program segment, that enables the player to obtain a song that is not stored on the player. Jeffay Dec. ¶¶ 45-46. Accordingly, the schedule file is thus a “playlist,” and Logan renders obvious the downloading of a playlist to the player.

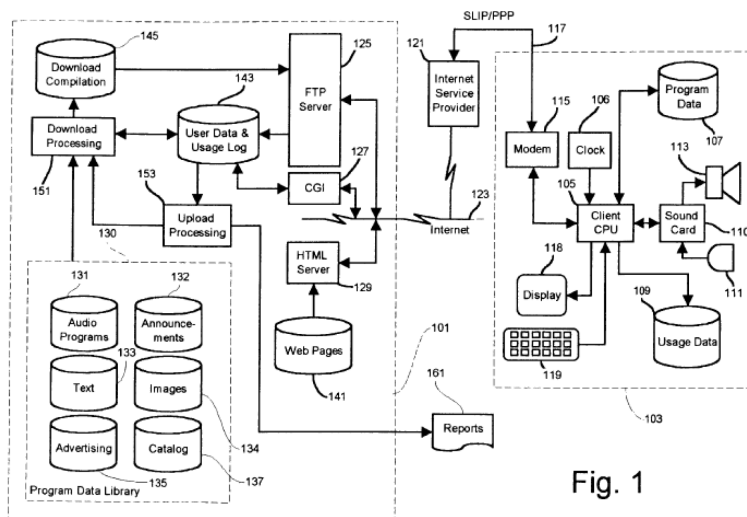


Fig. 1

Figure 1 of Logan, above, depicts a player 103, after obtaining the schedule file, issues download requests to the host server 101 for program segments which are not already in the player's local storage. *See also* Ex. 1004, 7:4-13. In embodiments, the player only requests transfer of program segments not already present in local storage 107. *See also id.* 19:4-8. The operation of downloading

songs via Internet 123 and Internet Service Provider 121 preferably occurs at a time established by the player 103. *See also id.* 8:24-29.

The player identifies specific program segments that it wants to download by, for example, designating filenames or program_id values. *See also id.* at 8:20-38 and Fig. 4 (Requested 301, Programs 303 and FTP, etc. 304). In particular, the selections made by and uploaded from the subscriber take the form of a file that designates the specific program segments for download to the subscriber's player. Ex. 1004, 17:5-14. This file includes a URL field that specifies the location of the file containing the specific program segment at an FTP server of the host server, or potentially at any other accessible location on the Internet. Ex. 1004, 17:24-67, 18:60-65, 19:12-15, Fig. 1. Either or both of the host server and another location on the Internet that contains a desired specific program segment are thus "remote sources."

The URL specifies the location of the specific program segment that the subscriber requests the host server to download for provision to the player. Ex. 1004, 9:31-45, 9:51-62, 17:5-24, 27:24-29. This URL is provided as part of a catalog that the host server presents to the subscriber. *Id.* In particular, the host server provides a catalog to the player device that includes a playlist like program schedule. Ex. 1004, 9:31-44. The player's catalog (which was obtained from the host server) includes URLs of the relevant program segments. *Id.* 27:24-29, 17:5-

24. Based on this catalog, the player device compiles a Requested Table and a Program Table that identifies content from the catalog selected by the user as well as the URLs at which such content may be found. *Id.* 17:17-24, 17:5-10. The player then sends these tables to the host server to obtain the selected content whenever desired. *Id.* 17:10-17:17.

With respect to claims 1 and 9, Logan discloses that the host server sends a schedule file (playlist) to the player device, and that the player unit receives the schedule file. *See, e.g.*, Ex. 1004, 2:47-50, 6:51-55, 7:1-13.

Further, with respect to claim 1, Logan discloses determining whether songs on the playlist are stored or are not stored on the playback unit. Ex. 1004, 7:4-13.

Further with respect to claims 1 and 9, Logan discloses that the host server provides the player with information enabling the player to obtain from a remote device a song that is not stored by the player. Ex. 1004, 9:31-45, 9:51-62, 17:5-24, 18:60-65 and 27:24-29. Jeffay Dec. ¶ 46.

With respect to claims 2-4 and 10-12, Logan discloses that the host server associates a player with other servers at which the player device may find a song by providing the player with the URL for the appropriate storage/server, and further through the use of a user identification code and a password. Ex. 1004, 9:31-45; 9:51-62, 17:5-24, 18:60-65 and 27:24-29. Jeffay Dec. ¶ 47.

With respect to claim 14, Logan discloses a personal audio network connecting the host server, the player device, and other servers from which the playback unit can obtain songs is a personal audio network, because that network enables the player device to obtain audio content personal to the user of the player device. Jeffay Dec. ¶ 48.

3. U.S. Provisional Patent Application No. 60/233,741 by Lau *et al.* (Ex. 1005)

Lau was filed in the United States PTO on September 19, 2000. The benefit of the priority date of Lau was claimed U.S. Patent No. 8,281,001, to Busam, *et al.*, (“Busam”), which (i) incorporated Lau by reference, (ii) was filed on September 19, 2001, and (iii) issued on October 2, 2012. Ex. 1006, Busam. As confirmed by the Board’s decision in *Ex parte Yamaguchi*, No. 2007-4412 (B.P.A.I. August 29, 2008), the disclosure in Lau qualifies as prior art to the ‘952 Patent under 35 U.S.C. § 102(e). Neither Busam nor Lau was cited during prosecution of the ‘952 Patent.

Lau discloses, in the context of a content distribution system and network, determining whether a content-requesting device and a target device from which content is being requested are able to connect directly. Ex. 1005, page 4, lines 9-11 and page 5, line 22-page 6, line 2; *see also* Ex. 1006, Busam, 7:11-24, 8:24-46, 8:61-9:20; . If a direct connection between the requesting device and the target device is not available, then a server may obtain the content from the target device and provide it to the requesting device, which receives it. Ex. 1005, page 5, line

22-page 6, line 2; *see also* Ex. 1006, Busam, 7:21-24, 8:24-46, 9:17-20. A person skilled in the art would understand that these features are taught in both Busam and Lau. Jeffay Dec. ¶¶ 49, 50.

With respect to claims 3, 4, 11 and 12 of the ‘952 Patent, Lau discloses (i) a server receiving a request for media content from a player device, (ii) the server obtaining the media content from another device, and (iii) providing the media content to the player device. Jeffay Dec. ¶ 51.

B. Ground I: The Berman Patent Anticipates Each of Claims 9, 10 and 14 Under 35 U.S.C. § 102

As discussed in the claims chart set forth below, the Berman patent discloses all of the elements of each of claims 9, 10 and 14 of the ‘952 Patent. For purposes of this Petition and proceeding, the claim constructions adopted by the Board with respect to the ‘952 Patent in IPR2013-00593 have been used.

Claim 9	The Berman Patent
A method comprising: receiving, at an electronic device, a playlist assigned to the electronic device, the playlist identifying a plurality of songs, wherein ones of the plurality of	<p>Berman discloses receiving, at a playback unit (electronic device), a song list (playlist) assigned to the playback unit, the song list identifying a plurality of songs, wherein ones of the plurality of songs are not stored on the playback unit.</p> <p>A playback unit is connected through a network to an audio material server as well as a directory and user list (“DUL”) server. Berman, 4:47-5:4 and Fig. 1. The DUL server provides an updated song list to the playback unit. Berman, 7:14-19 and Fig. 3. The playback unit 100 receives a song list from the DUL server 107. <i>See, e.g.</i>, Berman, Fig. 3, step 308 (“DUL SENDS UPDATED SONG LIST TO PLAYBACK UNIT”); <i>see also</i> Berman, Fig. 8, 10:23-30 (“confirm that the updated song list information was sent to and received by</p>

Claim 9	The Berman Patent
songs are not stored on the electronic device;	<p>the correct playback unit.”) (emphasis added).</p> <p>The songs are principally stored on audio material servers, <i>i.e.</i>, not on the playback unit. <i>See, e.g.</i>, Berman, 4:51-52 (“The playback unit receives audio material from an audio material server”) (emphasis added). The playback unit includes buffer memory for holding song data. Berman, 6:8-13, 11:28-12:62. The playback memory may not store entire songs. Berman, 11:30-32 and 12:23-30. In addition, songs may be recorded to an external storage area if there is permission. <i>See, e.g.</i>, Berman, 8:4-23, 13:65-14:2, 14:54-60, Fig. 13.</p>
receiving, at the electronic device, information enabling the electronic device to obtain the ones of the plurality of songs from at least one remote source; and	<p>Berman discloses receiving, at the playback unit (electronic device), information enabling the playback unit (electronic device) to obtain the ones of the plurality of songs from at least one remote source.</p> <p>The DUL server provides the playback unit with a network address or URL for requested songs. Berman, 7:29-44 and Fig. 3. This enables the playback unit to obtain the song from the audio material server. <i>See, e.g.</i>, Berman, Fig. 3, step 314 (“DUL SERVER SENDS URL OF AUDIO MATERIAL SERVER AT WHICH SONG DATA IS STORED”) (emphasis added).</p>
obtaining the ones of the plurality of songs from the at least one remote source.	<p>Berman discloses obtaining the ones of the plurality of songs from the at least one remote source.</p> <p>“[T]he audio material server transmits the audio material (for example, comprising a sound file) to the playback unit, where it is received by the network interface as described above.” Berman, 8:31-34 (emphasis added); <i>see also, e.g., id.</i> Fig. 4, step 412 (“AUDIO MATERIAL SERVER TRANSMITS DATA PACKETS”).</p>

Claim 10	The Berman Patent
The method of claim 9 wherein the electronic	Berman discloses that the playback unit (electronic device) is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality

Claim 10	The Berman Patent
<p>device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices,</p>	<p>of associated electronic devices.</p> <p>“The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51 (emphasis added).</p> <p>“When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server, it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server.” Berman, 7:55-66 (emphasis added); <i>see also id.</i> Figs. 3 and 4.</p>
<p>and obtaining the ones of the plurality of songs comprises: requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and</p>	<p>Berman discloses requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>The playback unit 100 requests the song from the audio material server. Berman, 7:41-44 and Fig. 4, step 402 (“PLAYBACK UNIT SENDS SONG REQUEST TO AUDIO MATERIAL SERVER”) (emphasis added).</p>
<p>receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p>	<p>Berman discloses receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>The playback unit receives the requested song from the audio material server. <i>See, e.g.,</i> Berman, Fig. 4, step 412 (“AUDIO MATERIAL SERVER TRANSMITS SONG DATA PACKETS”), 8:31-34 (“the audio material server transmits the audio material (comprising, for example, a sound file) to the playback unit, where it is received by the</p>

Claim 10	The Berman Patent
	network interface as described above.”) (emphasis added).

Claim 14	The Berman Patent
The method of claim 9 wherein the electronic device is one of a plurality of electronic devices associated with a personal audio network comprising the plurality of electronic devices and a personal audio network server, and	<p>Berman discloses that the playback unit (electronic device) is one of a plurality of electronic devices associated with a personal audio network comprising the plurality of electronic devices and a personal audio network server.</p> <p>“The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51 (emphasis added).</p> <p>“When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server, it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server.” Berman, 7:55-66 (emphasis added); <i>see also id.</i> Figs. 3 and 4.</p>
receiving the playlist assigned to the electronic device comprises receiving the playlist from the personal audio network, wherein the personal audio network server enables a user to assign the playlist to the electronic device; and	<p>Berman discloses receiving the playlist assigned to the electronic device comprises receiving the playlist from the personal audio network, wherein the personal audio network server enables a user to assign the playlist to the electronic device.</p> <p>The playback unit receives an updated song list from the DUL server. <i>See, e.g.</i>, Berman, Fig. 3, step 308 (“DUL SENDS UPDATED SONG LIST TO PLAYBACK UNIT”) (emphasis added).</p>
receiving the	Berman discloses that receiving the information comprises

Claim 14	The Berman Patent
information comprises receiving information from the personal audio network server enabling the electronic device to obtain the ones of the plurality of songs from the at least one remote source.	receiving information from the personal audio network server enabling the electronic device to obtain the ones of the plurality of songs from the at least one remote source. The playback unit receives a URL or network address of the audio material server at which the song data is stored, enabling the playback unit to obtain the song from the audio material server. <i>See, e.g.</i> , Fig. 3, step 314 (“ DUL SERVER SENDS URL OF AUDIO MATERIAL SERVER AT WHICH SONG DATA IS STORED ”) (emphasis added).

C. Ground II: The Berman Patent Renders Obvious Each of Claims 1, 2 and 3 Under 35 U.S.C. § 103

Berman discloses that songs on a playlist will be downloaded into the memory of its playback unit. *See* Ex. 1003, 11:30-34; *see also id.* 8:56-61, 9:16-21, 13:10-21, 15:30-39. A POSA would have understood that songs that had already been downloaded could be replayed without downloading the songs again, as long as the playback unit remained on. Jeffay Dec. ¶ 36. Berman further discloses the step of identifying songs that have not yet been downloaded to the unit. *See* Ex. 1003, 9:16-21; *see also id.* 8:56-61, 13:10-21, 15:30-39, Fig. 14 (arrow 4). A POSA would also have understood that to play such songs, they would need to be downloaded from the audio material servers (remote sources) using URLs provided to the playback unit by the DUL server. As discussed above,

downloading songs to a playback unit was well known in the art at the time of the application for the '952 Patent. Accordingly, a person skilled in the art would understand that Berman renders obvious each of claims 1, 2 and 3 of the '952 Patent.

Claim 1	The Berman Patent
<p>A method comprising: assigning a playlist to an electronic device, the playlist identifying a plurality of songs;</p>	<p>Berman discloses assigning an updated song list (a playlist) identifying a plurality of songs to playback unit (an electronic device).</p> <p>The playback unit 100 receives a song list from the DUL server 107. <i>See, e.g.</i>, Berman, Fig. 3, step 308 (“DUL SENDS UPDATED SONG LIST TO PLAYBACK UNIT”) (emphasis added); <i>see also</i> Berman, Fig. 8, 10:23-30 (“confirm that the updated song list information was sent to and received by the correct playback unit.”) (emphasis added).</p>
<p>identifying ones of the plurality of songs in the playlist that are not stored on the electronic device;</p>	<p>Berman renders obvious determining ones of the plurality of songs in the song list (playlist) that are not stored on the playback unit (electronic device).</p> <p>“Once the ‘next’ track is determined in accordance with the operating mode, the microprocessor determines if the next track is in the memory buffer of the playback unit. If the next track is not in the buffer, a negative outcome at the decision box 506, then the microprocessor requests the missing track from the appropriate audio material server.” Berman, 9:16-21 (emphasis added); <i>see also id.</i> 8:56-61, 13:10-21, 15:30-39, Fig. 14 (arrow 4). Songs that had already been downloaded could be replayed without downloading them again. Jeffay Dec. ¶ 36.</p> <p>“In addition, the volatility of the buffer memory ensures that the user has no permanent copy of the audio material.” Berman, 6:22-27. The user may store or record songs to an external storage device under certain circumstances. Berman, 13:65-14:2; 8:16-23.</p>

Claim 1	The Berman Patent
	The playback unit's volatile memory may not store entire songs. Berman, 11:30-32 and 12:23-30.
providing the playlist to the electronic device; and	<p>Berman discloses providing the song list (playlist) to the playback unit (electronic device).</p> <p>The playback unit 100 receives a song list from the DUL server 107. <i>See, e.g.</i>, Berman, Fig. 3, step 308 (“DUL SENDS UPDATED SONG LIST TO PLAYBACK UNIT”) (emphasis added).</p>
providing information to the electronic device enabling the electronic device to obtain the ones of the plurality of songs that are not stored on the electronic device from at least one remote source.	<p>Berman discloses providing information to the playback unit (electronic device) enabling the playback unit to obtain ones of the plurality of songs that are not stored on the electronic device from at least one remote source.</p> <p>The user may store or record songs to an external storage device under certain circumstances. Berman, 6:22-27, 13:65-14:2; 8:16-23.</p> <p>The playback unit's volatile memory does not store entire songs. Berman, 11:30-32 and 12:23-30.</p> <p>The DUL server provides the playback unit with a network address or URL for requested songs. Berman, 7:29-44 and Fig. 3. In embodiments, songs are not stored on the playback device (Berman, 6:22-27; 13:65-14:2; 8:16-23; 11:30-32; 12:23-30), and a network address or URL is needed for such songs. The playback unit 100 requests songs from an audio material server located at that URL. Berman, 7:41-44 and Fig. 4. The audio material server transmits songs to the playback unit. Berman, 8:28-34 and Fig. 4.</p>
Claim 2	The Berman Patent
The method of claim 1 wherein the electronic device is one of a plurality of associated electronic	<p>Berman discloses that the playback unit (electronic device) is associated with a plurality of audio material servers and a DUL server (a plurality of associated electronic devices).</p> <p>“The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51</p>

Claim 2	The Berman Patent
devices,	<p>(emphasis added).</p> <p>“When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server, it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server.” Berman, 7:55-66 (emphasis added) and Figs. 3 and 4.</p>
<p>and providing the information to the electronic device comprises: identifying at least one other of the plurality of associated electronic devices hosting the ones of the plurality of songs, wherein the at least one other of the plurality of associated electronic devices is the at least one remote source; and</p>	<p>Berman discloses identifying at least one other of the plurality of associated electronic devices hosting the ones of the plurality of songs, wherein the at least one other of the plurality of associated electronic devices is the at least one remote source.</p> <p>The DUL server provides the playback unit with the network address for requested songs. Berman, 7:29-44 and Fig. 3. This may, for example, be a uniform resource locator (“URL”) specifying an appropriate audio material server where the song may be found. <i>Id.</i></p> <p>“If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server.” Berman, 7:55-66 (emphasis added) and Figs. 3 and 4.</p>
providing information to the electronic device enabling the electronic device to obtain	<p>Berman discloses providing information to the playback unit (electronic device) enabling the playback unit to obtain the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>The DUL server provides the playback unit with the network address for requested songs. Berman, 7:29-44 and</p>

Claim 2	The Berman Patent
the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.	Fig. 3. This may, for example, be a uniform resource locator (“URL”) specifying an appropriate audio material server where the song may be found. <i>Id.</i> The playback unit requests the song from the audio material server located at that URL, and the audio material server transmits the audio material to the playback unit. Berman, 7:41-44 and Fig. 4.

Claim 3	The Berman Patent
The method of claim 1 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, and the method further comprises:	Berman discloses that the playback unit (electronic device) is one of a plurality of associated electronic devices and an audio material server is one other of the associated plurality of electronic devices. “The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51 (emphasis added). “When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server , it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server. ” Berman 7:55-66 (emphasis added); <i>see also id.</i> Figs. 3 and 4.
receiving a request for the ones of the plurality of songs from the electronic device;	Berman discloses receiving a request for the ones of the plurality of songs from the playback unit (electronic device). The playback unit requests a song from an audio material server. <i>See, e.g.,</i> Berman, Fig. 4, step 402 (“ PLAYBACK UNIT SENDS SONG REQUEST TO AUDIO MATERIAL SERVER ”) (emphasis added).
obtaining the ones of the	Berman discloses obtaining the ones of the plurality of songs from the audio material server (one other of the plurality of

Claim 3	The Berman Patent
plurality of songs from the at least one other of the plurality of associated electronic devices; and	associated electronic devices). “[T]he audio material server transmits the audio material (for example, comprising a sound file) to the playback unit, where it is received by the network interface as described above.” Berman, 8:31-34 (emphasis added); <i>see also, e.g., id.</i> Fig. 4, step 412 (“AUDIO MATERIAL SERVER TRANSMITS DATA PACKETS”).
providing the ones of the plurality of songs to the electronic device.	Berman discloses providing the ones of the plurality of songs to the playback unit. “[T]he audio material server transmits the audio material (for example, comprising a sound file) to the playback unit, where it is received by the network interface as described above.” Berman, 8:31-34 (emphasis added); <i>see also, e.g., id.</i> Fig. 4, step 412 (“AUDIO MATERIAL SERVER TRANSMITS DATA PACKETS”).

D. Ground III: The Combination of the Berman Patent and the Lau Application Renders Obvious Each of Claims 4, 11 and 12 Under 35 U.S.C. § 103

Berman discloses a DUL server that provides a playlist to a playback unit, and that also provides the playback unit with the network address, such as a URL, of the audio material server from which the playback unit may obtain songs in the playlist. Ex. 1003, 4:47-5:4, Fig. 1, 7:29-44 and Fig. 3. Berman also discloses that the DUL server maintains control over communication from the playback unit to the network, such that it can determine if the audio material server at the URL (that it earlier provided to the playback unit to access a song) is inactive or not responding, and can take alternate action, such as communicating the URL of a

backup or alternate audio material server to the playback unit, to ensure that the playback unit obtains the requested song. Ex. 1003, 7:45-54.

Lau discloses, in the context of a content distribution system and network, determining whether a content-requesting device and a target device from which content is being requested are able to communicate directly. Ex. 1005, page 4, lines 9-11 and page 5, line 22-page 6, line 2; *see also* Ex. 1006, Busam, 7:11-24, 8:61-9:20. If a direct connection between the requesting device and the target device is not possible, then the server obtains the content from the target device and provides it to the requesting device. Ex. 1005, page 5, line 22-page 6, line 2; *see also* Ex. 1006, Busam, 7:21-24, 9:17-20.

Accordingly, a POSA would be motivated to implement Lau's disclosure that a server, such as the DUL server of the Berman, could obtain content desired by a requesting player device from a remote server and provide it to the requesting player device. In particular, the improved DUL server of Berman, would determine if the requesting player device, i.e., a playback unit of Berman, fails to directly obtain a song on its playlist from the URL address at which the song is located, and, if so, the DUL server would instead itself obtain the song from that URL address and provide it to the playback unit. Jeffay Dec. ¶¶ 52-54. Doing so would render the network of Berman more robust, because the playback unit would have an additional channel through which it could obtain the song from the audio

material server (i.e., indirectly from the audio material server by way of the DUL server). Jeffay Dec. ¶ 54. Combining such features is at most the mere combination of known elements according to a known method to yield predictable results, or simple substitution of one known element for another to obtain predictable results. Jeffay Dec. ¶ 54.

More specifically, claim 3 of the '952 Patent recites "receiving a request for the ones of the plurality of songs from the electronic device," and claim 4 of the '952 Patent recites "receiving a request for the ones of the plurality of songs from the electronic device if the electronic device is unable to connect to the at least one other of the plurality of associated electronics devices." Claim 12 of the '952 Patent recites "if the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices: providing a request for the ones of the plurality of songs to a central server." As discussed above, Berman discloses that the DUL server monitors communication from the playback unit to the network, and can determine if the audio material server at the selected URL is inactive or not responding properly. Ex. 1003, 7:44-54. Thus, Berman discloses that, to obtain a missing song, the playback unit can contact a location other than the original URL location provided by the DUL server for that song. Based on this and the disclosures of Lau as discussed above, a POSA would have been motivated to modify Berman's teachings so that, when the playback unit communicates with

the DUL server to obtain a missing song when a URL is inactive or not operating properly, the DUL obtains and sends the song to the playback unit. Jeffay Dec. ¶¶ 52-55.

Claim 4	The Combination of Berman and Lau
<p>The method of claim 1 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, the method further comprising:</p>	<p>Berman discloses that the playback unit (electronic device) is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices.</p> <p>“The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51 (emphasis added).</p> <p>“When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server, it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server.” Berman, 7:55-66 (emphasis added); <i>see also id.</i> Figs. 3 and 4.</p>
<p>receiving a request for the ones of the plurality of songs from the electronic device if the electronic device is unable to connect to the at least one other of the plurality of associated electronic</p>	<p>Lau discloses receiving a request for the ones of the plurality of songs from the electronic device if the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs.</p> <p>If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device. Lau, page 4, lines 9-11 and page 5, line 22 - page 6, line 2; <i>see also</i> Ex. 1006, Busam, 7:21-24, 9:17-20.</p>

Claim 4	The Combination of Berman and Lau
devices to obtain the ones of the plurality of songs;	
obtaining the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and	<p>Lau discloses obtaining the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>A server monitors communications requesting content, such as a song, by a content-requesting device from a target device. Lau page 4, lines 9-11 and page 5, line 22-page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device. <i>Id.</i></p>
providing the ones of the plurality of songs to the electronic device.	<p>Lau discloses providing the ones of the plurality of songs to the electronic device.</p> <p>If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device. Lau, page 4, lines 9-11 and page 5, line 22-page 6, line 2.</p>

Claim 11	The Combination of Berman and Lau
The method of claim 9 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of	<p>Berman discloses that the playback unit (electronic device) is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices.</p> <p>“The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51 (emphasis added).</p> <p>“When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server, it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a</p>

Claim 11	The Combination of Berman and Lau
associated electronic devices, and obtaining the ones of the plurality of songs comprises:	permission granted flag that is checked by the appropriate audio material server.” Berman 7:55-66 (emphasis added); <i>see also id.</i> Figs. 3 and 4.
providing a request for the ones of the plurality of songs to a central server,	Lau discloses providing a request for the ones of the plurality of songs to a central server, A server monitors communications requesting content, such as a song, by a content-requesting device from a target device. Lau page 4, lines 9-11 and page 5, line 22-page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server is requested to obtain the requested content. <i>Id.</i>
wherein in response to the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and	Lau discloses that, in response to the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices. If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device. Lau, page 4, lines 9-11 and page 5, line 22-page 6, line 2.
receiving the ones of the plurality of songs from the central server.	Lau discloses receiving the ones of the plurality of songs from the central server. If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device, which receives it. Lau, page 4, lines 9-11 and page 5, line 22.

Claim 12	The Combination of Berman and Lau
<p>The method of claim 9 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, and obtaining the ones of the plurality of songs comprises:</p>	<p>Berman discloses that the playback unit (electronic device) is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices.</p> <p>“The playback unit communicates over a network, such as the Internet 102, to request digital audio material from one or more audio material servers 104.” Berman, 4:48-51(emphasis added).</p> <p>“When the playback unit sends the song request to the [audio material] server whose URL is received from the DUL server, it also sends a user identification code (user ID) and encrypted password information to the DUL server. . . . If the user ID and password information is validated, then the DUL server sets a permission granted flag that is checked by the appropriate audio material server.” Berman 7:55-66 (emphasis added); <i>see also id.</i> Figs. 3 and 4.</p>
<p>determining whether the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs;</p>	<p>Berman discloses that obtaining the ones of the plurality of songs comprises: determining whether the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs.</p> <p>“[T]he DUL server can determine if the audio material server at the indicated URL is inactive or not responding.” Berman, 7:44-54.</p> <p>A server monitors communications requesting content, such as a song, by a content-requesting device from a target device. Lau page 4, lines 9-11 and page 5, line 22 – page 6, line 2. The electronic device determines whether it is unable to connect to the target device. <i>Id.</i></p>
<p>if the electronic device is unable to connect to the at least one</p>	<p>Lau discloses that, if the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices: providing a request for the ones of the plurality of songs to a central server, wherein in response to</p>

Claim 12	The Combination of Berman and Lau
<p>other of the plurality of associated electronic devices: providing a request for the ones of the plurality of songs to a central server, wherein in response to the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and</p>	<p>the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>A server monitors communications requesting content, such as a song, by a content-requesting device from a target device. Lau page 4, lines 9-11 and page 5, line 22 – page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server is requested to obtain the requested content. <i>Id.</i></p>
<p>receiving the ones of the plurality of songs from the central server; and</p>	<p>Lau discloses receiving the ones of the plurality of songs from the central server.</p> <p>A server monitors communications requesting content, such as a song, by a content-requesting device from a target device. Lau page 4, lines 9-11 and page 5, line 22 – page 6, line 2. “In instances where machine[s] are unable to create direct connections, the central server, which would have a globally valid IP, will act as a conduit between the two devices, forwarding messages to the proper machine. Each machine will communicate directly with the server such that a virtual connection is formed.” <i>Id.</i> (emphasis added).</p>

Claim 12	The Combination of Berman and Lau
<p>if the electronic device is able to connect to the at least one other of the plurality of associated electronic devices: requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and</p>	<p>Berman discloses that, if the playback unit (electronic device) is able to connect to the audio material server (at least one other of the plurality of associated electronic devices), requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>Berman, Fig. 4, step 402 (“PLAYBACK UNIT SENDS SONG REQUEST TO AUDIO MATERIAL SERVER”) (emphasis added).</p> <p>“Once the song URL is received, the playback unit initiates communication with the appropriate audio material server to request the song from the appropriate directory. This step is represented by the FIG. 4 flow diagram box numbered 402. . . [T]herefore the DUL server can determine if the audio material server at the indicated URL is inactive or not responding. If either is the case, then the DUL server will detect this condition and may send the URL of a backup or alternate audio material server at which the requested song is stored. In this way, the user may still gain access to the requested song and listen to it.” Berman, 7:41-54.</p>
<p>receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p>	<p>Berman discloses receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>“[T]he audio material server transmits the audio material (for example, comprising a sound file) to the playback unit, where it is received by the network interface as described above.” Berman, 8:31-34 (emphasis added); <i>see also, e.g., id.</i> Fig. 4, step 412 (“AUDIO MATERIAL SERVER TRANSMITS DATA PACKETS”).</p>

E. Ground IV: Logan Renders Obvious Each of Claims 1, 2, 3, 9, 10, 11 and 14 Under 35 U.S.C. § 103

As discussed in the claims chart set forth below, Logan discloses each of the elements of each of claims 1, 2, 3, 9, 10, 11 and 14 of the ‘952 Patent.

Logan discloses that a player (103) downloads a session schedule file, which identifies an order in which downloaded program segments are to be played. Logan, 7:10-11, 8:39-41. Logan also discloses that the player is capable of storing and reproducing audio programming material, including music files. *E.g., id.* 4:38-41, 5:13-17, 5:60-65. A POSA would understand that Logan's session schedule file could identify an order of program segments that are songs, and, as discussed above, Logan provides the player with information, including a URL associated with each program segment, that enables the player to obtain a song that is not stored on the player. Jeffay Dec. ¶¶ 45-46. Accordingly, Logan renders obvious the downloading of a playlist to the player.

Claim 1	The Logan Patent
A method comprising: assigning a playlist to an electronic device, the playlist identifying a plurality of songs;	<p>Logan renders obvious assigning a playlist to an electronic device, the playlist identifying a plurality of songs (program segments).</p> <p>Jeffay Dec. ¶¶ 45-46.</p> <p>“An audio program and message distribution system in which a host system organizes and transmits program segments to client subscriber locations. The host organizes the program segments by subject matter and creates scheduled programming in accordance with preferences associated with each subscriber. . . . A playback unit at the subscriber location reproduces the program segments received from the host” Logan, Abstract (emphasis added).</p> <p>“The host server 101 periodically transmits a download compilation file 145 upon receiving a request from the player 103. The file 145 is placed in a predetermined FTP download file directory and assigned a filename known to</p>

Claim 1	The Logan Patent
	<p>the player 103.” Logan, 6:51-55 (emphasis added). <i>See also id.</i> 7:1-13, 12:3-15, 17:59-61.</p> <p>“According to a further feature of the invention, the audio program player plays program segments in an order determined by a session schedule which identifies an ordered sequence of program segments.” <i>Id.</i> at 2:44-47.</p> <p>“The compressed audio segments program segments comprise audio voice and music files” <i>Id.</i> at 5:60-61.</p>
<p>identifying ones of the plurality of songs in the playlist that are not stored on the electronic device;</p>	<p>Logan discloses identifying ones of the plurality of songs in the playlist that are not stored on the electronic device.</p> <p>“The player 103 downloads the session schedule file and then issues download requests for those identified program segment files which are not already available in the player’s local storage unit 107.” Logan, 7:10-13 (emphasis added). <i>See also id.</i> 19:4-8.</p>
<p>providing the playlist to the electronic device; and</p>	<p>Logan discloses providing the playlist to the electronic device.</p> <p>“The player 103 downloads the session schedule file and then issues download requests for those identified program segment files which are not already available in the player’s local storage unit 107.” Logan, 7:10-13 (emphasis added). “[A] session schedule file contains program identifiers of the program segments to be played during an upcoming session.” <i>Id.</i> at 7:7-9. <i>See also id.</i> 7:1-13, 12:3-15, 17:59-61.</p>
<p>providing information to the electronic device enabling the electronic device to obtain the ones of the plurality of songs that are not stored on the electronic device</p>	<p>Logan discloses providing information to the electronic device enabling the electronic device to obtain the ones of the plurality of songs that are not stored on the electronic device from a location of a file at an FTP server of the host server, or any other accessible location on the Internet (at least one remote source).</p> <p>“The player 103 downloads the session schedule file and then issues download requests for those identified program segment files which are not already available in the player’s local storage unit 107.” Logan, 7:10-13</p>

Claim 1	The Logan Patent
<p>from at least one remote source.</p>	<p>(emphasis added).</p> <p>“[A]dditional programming which fits the subscriber’s indicated subject matter preferences, along with additional programming which the server includes as being of particular interest, is identified in a catalog (as periodically supplemented by a download file seen at 308 in FIG. 4) and presented to the user in the form of a proposed program schedule together with a catalog of additional selections which may be substituted or inserted into the proposed schedule.” Logan, 9:36-42.</p> <p>“Downloading of actual program segments therefore preferably occurs at the request of the player which scans the Schedule for program and advertising segments not already available and issues a request for the needed segments using the URLs contained in the players catalog of Program_Segment records.” Logan, 27:24-29 (emphasis added). <i>See also</i> 17:5-24; 18:60-65.</p> <p>“The selections made by and uploaded from the subscriber take the form of a file (sequence) of 32 bit integers, each integer (Program ID) designating a particular program segment.” Logan, 17:10-13. This file is associated in the host with a record in a Programs Table. <i>Id.</i> at 13-17. Each record in the Programs Table includes a Program_Segment record that includes a URL associated with the ProgramID identifying the program segment. <i>Id.</i> at 17-50. “The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15.</p>

Claim 2	The Logan Patent
<p>The method of claim 1 wherein the electronic device is one of a plurality of associated electronic</p>	<p>Logan discloses that the player (electronic device) is associated with a host server, an FTP server, or a device associated with a URL (an associated electronic device).</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including</p>

Claim 2	The Logan Patent
devices,	<p>storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added).</p> <p>“Downloading of actual program segments therefore preferably occurs at the request of the player which scans the Schedule for program and advertising segments not already available and issues a request for the needed segments using the URLs contained in the players catalog of Program_Segment records.” Logan, 27:24-29 (emphasis added). <i>See also</i> 11:41-52 (disclosing passwords), 17:5-24.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15 (emphasis added).</p> <p>“The download file or files containing programming and advertising segments as well as subscriber specific data are designate[d] by filenames provided by the requesting client/player 103 and move from storage unit 145 utilizing the FTP server 125 and the Internet connection into local storage at 107 in the client/player 103.” Logan, 8:29-34.</p>
and providing the information to the electronic device comprises: identifying at least one other of the plurality of associated electronic devices hosting the ones of the plurality of songs, wherein the at least one other of the plurality of	<p>Logan discloses providing the information to the electronic device comprises identifying at least one other of the plurality of associated electronic devices hosting the ones of the plurality of songs, wherein the at least one other of the plurality of associated electronic devices is the at least one remote source.</p> <p>“[A]dditional programming which fits the subscriber’s indicated subject matter preferences, along with additional programming which the server includes as being of particular interest, is identified in a catalog (as periodically supplemented by a download file seen at 308 in FIG. 4) and presented to the user in the form of a proposed program schedule together with a catalog of additional selections which may be substituted or inserted into the proposed schedule.” Logan, 9:36-42 (emphasis added).</p> <p>“The program, advertising and announcement segments to be</p>

Claim 2	The Logan Patent
associated electronic devices is the at least one remote source; and	<p>made available to an individual subscriber include those program selections which the subscriber chooses from the supplied catalog of recommended programs. . . .” Logan at 17:5-10. The catalog includes a ProgramID designation for each particular program segment, which is associated with “a plurality of attributes” including a URL. Logan at 17:5-50 (emphasis added); Jeffay Dec. ¶ 46.</p> <p>“Downloading of actual program segments therefore preferably occurs at the request of the player which scans the Schedule for program and advertising segments not already available and issues a request for the needed segments using the URLs contained in the players catalog of Program_Segment records.” Logan, 27:24-29. <i>See also</i> 17:5-24.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15 (emphasis added).</p>
providing information to the electronic device enabling the electronic device to obtain the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.	<p>Logan discloses providing information to the electronic device enabling the electronic device to obtain the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>“The program, advertising and announcement segments to be made available to an individual subscriber include those program selections which the subscriber chooses from the supplied catalog of recommended programs. . . .” Logan at 17:5-10 (emphasis added). The catalog includes a ProgramID designation for each particular program segment, which is associated with “a plurality of attributes” including a URL. Logan at 17:5-50 (emphasis added); Jeffay Dec. ¶ 46; <i>see also</i> Logan, 9:36-42, 17:5-24, 19:12-15 and 27:24-29.</p>
Claim 3	The Logan Patent
The method of claim 1 wherein	Logan discloses that the player (electronic device) is associated with a host server, and an FTP server, or a device

Claim 3	The Logan Patent
<p>the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, and the method further comprises:</p>	<p>associated with a URL (an associated electronic device that is a remote source).</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added); <i>see also id.</i> 11:41-52 (disclosing passwords), 17:5-24, 27:24-29.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15.</p> <p>“The download file or files containing programming and advertising segments as well as subscriber specific data are designate[d] by filenames provided by the requesting client/player 103 and move[d] from storage unit 145 utilizing the FTP server 125 and the Internet connection into local storage at 107 in the client/player 103.” Logan, 8:29-34 (emphasis added).</p>
<p>receiving a request for the ones of the plurality of songs from the electronic device;</p>	<p>Logan discloses receiving a request for the ones of the plurality of songs from the electronic device.</p> <p>“The uploaded requested list 301 [from the player to the server] should accordingly be understood to be indicative of the requested content of a future planned playback session. . . . The selection of files to be downloaded is preferably made by the player which issued FTP download requests from the server by specifying the needed files.” Logan at 19:9-15 (emphasis added).</p>
<p>obtaining the ones of the plurality of songs from the at least one other of the plurality of</p>	<p>Logan discloses obtaining the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>“The selection of files to be downloaded is preferably made by the player which issued FTP download requests from the server by specifying the needed files.” Logan at 19:9-15</p>

Claim 3	The Logan Patent
associated electronic devices; and	(emphasis added). “Based on the information supplied by the user, the server then compiles one or more files for downloading to the subscriber at step 207 which include programming and advertising segments The download operation occurs at a time established by the player which establishes a dial up connection via the SLIP/PPP serial connection to the local Internet service provider 121 which provides an Internet connection to the host FTP server 125.” Logan, 8:20-29 (emphasis added), and Fig. 2.
providing the ones of the plurality of songs to the electronic device.	Logan discloses providing the ones of the plurality of songs to the electronic device. “ The host server 101 periodically transmits a download compilation file 145 upon receiving a request from the player 103.” Logan, 6:51-56 (emphasis added); <i>see also id.</i> at 8:20-38 and Fig. 2.

Claim 9	The Logan Patent
A method comprising: receiving, at an electronic device, a playlist assigned to the electronic device, the playlist identifying a plurality of songs, wherein ones of the plurality of songs are not stored on the electronic device;	Logan renders obvious receiving, at a playback device (electronic device), a schedule of audio programming (playlist) assigned to the playback device, the playlist identifying a plurality of songs, wherein ones of the plurality of songs are not stored on the playback device. Jeffay Dec. ¶¶ 45-46. “An audio program and message distribution system in which a host system organizes and transmits program segments to client subscriber locations. The host organizes the program segments by subject matter and creates scheduled programming in accordance with preferences associated with each subscriber. . . . A playback unit at the subscriber location reproduces the program segments received from the host” Logan, Abstract (emphasis added). “The host server 101 periodically transmits a download compilation file 145 upon receiving a request from the player 103. The file 145 is placed in a predetermined FTP

Claim 9	The Logan Patent
	<p>download file directory and assigned a filename known to the player 103.” Logan, 6:51-55 (emphasis added).</p> <p>“The player 103 downloads the session schedule file and then issues download requests for those identified program segment files which are not already available in the player’s local storage unit 107.” Logan, 7:10-13. <i>See also id.</i> 19:4-8.</p>
<p>receiving, at the electronic device, information enabling the electronic device to obtain the ones of the plurality of songs from at least one remote source; and</p>	<p>Logan discloses receiving, at the playback device, information enabling the playback device to obtain the ones of the plurality of songs from at least one remote source.</p> <p>“The program, advertising and announcement segments to be made available to an individual subscriber include those program selections which the subscriber chooses from the supplied catalog of recommended programs. . . .” Logan at 17:5-10 (emphasis added). The catalog includes a ProgramID designation for each particular program segment, which is associated with “a plurality of attributes,” including a URL. Logan at 17:5-50 (emphasis added); Jeffay Dec. ¶ 46; <i>see also</i> Logan, 9:36-42, 17:5-24, 19:12-15 and 27:24-29.</p>
<p>obtaining the ones of the plurality of songs from the at least one remote source.</p>	<p>Logan discloses obtaining the ones of the plurality of songs from the at least one remote source.</p> <p>“The selection of files to be downloaded is preferably made by the player which issued FTP download requests from the server by specifying the needed files.” Logan at 19:9-15.</p> <p>“Based on the information supplied by the user, the server then compiles one or more files for downloading to the subscriber at step 207 which include programming and advertising segments The download operation occurs at a time established by the player which establishes a dial up connection via the SLIP/PPP serial connection to the local Internet service provider 121 which provides an Internet connection to the host FTP server 125.” Logan, 8:20-29 (emphasis added), and Fig. 2.</p>

Claim 10	The Logan Patent
<p>The method of claim 9 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, and</p>	<p>Logan discloses that the player (electronic device) is associated with a host server, an FTP server, or a device associated with a URL (an associated electronic device that is a remote source).</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added); <i>see also id.</i> 8:29-34, 11:41-52 (disclosing passwords), 17:5-24, 27:24-29.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> 19:12-15 (emphasis added).</p>
<p>obtaining the ones of the plurality of songs comprises: requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and</p>	<p>Logan discloses that obtaining the ones of the plurality of songs comprises requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>“The selection of files to be downloaded is preferably made by the player which issues FTP download requests from the server by specifying the needed files.” Logan at 19:9-15 (emphasis added).</p> <p>“Based on the information supplied by the user, the server then compiles one or more files for downloading to the subscriber at step 207 which include programming and advertising segments The download operation occurs at a time established by the player which establishes a . . . connection to the host FTP server 125. Logan, 8:20-29 (emphasis added), and Fig. 2.</p>
<p>receiving the ones of the plurality of songs from the at least one</p>	<p>Logan discloses receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>“Based on the information supplied by the user, the server then compiles one or more files for downloading to the subscriber</p>

Claim 10	The Logan Patent
other of the plurality of associated electronic devices.	at step 207, which include programming and advertising segments The download operation occurs at a time established by the player which establishes a dial up connection via the SLIP/PPP serial connection to the local Internet service provider 121 which provides an Internet connection to the host FTP server 125.” Logan, 8:20-29 (emphasis added), and Fig. 2; <i>see also id.</i> 8:20-38.

Claim 11	The Logan Patent
The method of claim 9 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, and	<p>Logan discloses that the player (electronic device) is associated with a host server, an FTP server, or a device associated with a URL (an associated electronic device that is a remote source).</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added); <i>see also id.</i> 11:41-52 (disclosing passwords), 17:5-24, 27:24-29.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” Logan, 19:12-15 (emphasis added).</p> <p>“The download file or files containing programming and advertising segments as well as subscriber specific data are designate[d] by filenames provided by the requesting client/player 103 and move from storage unit 145 utilizing the FTP server 125 and the Internet connection into local storage at 107 in the client/player 103.” Logan, 8:29-34.</p>
obtaining the ones of the plurality of songs comprises: providing a	<p>Logan discloses that obtaining the ones of the plurality of songs comprises: providing a request for the ones of the plurality of songs to a central server.</p> <p>“The selection of files to be downloaded is preferably made by the player which issues FTP download requests from</p>

Claim 11	The Logan Patent
request for the ones of the plurality of songs to a central server,	<p>the server by specifying the needed files.” Logan at 19:9-15 (emphasis added).</p> <p>“Based on the information supplied by the user, the server then compiles one or more files for downloading to the subscriber at step 207 which include programming and advertising segments The download operation occurs at a time established by the player which establishes a dial up connection via the SLIP/PPP serial connection to the local Internet service provider 121 which provides an Internet connection to the host FTP server 125.” Logan, at 8:20-29 (emphasis added), and Fig. 2.</p>
wherein in response to the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and	<p>Logan discloses that, in response to the request, the server compiles (uploads) songs requested by the playback unit from the server, an FTP site, or another device associated with a URL (associated electronic device).</p> <p>“The selection of files to be downloaded is preferably made by the player which issued FTP download requests from the server by specifying the needed files.” Logan at 19:9-15 (emphasis added).</p> <p>“Based on the information supplied by the user, the server then compiles one or more files for downloading to the subscriber at step 207 which include programming and advertising segments” Logan, at 8:20-29 (emphasis added), and Fig. 2.</p> <p>The host server 101 periodically transmits a download compilation file 145 upon receiving a request from the player 103.” Logan at 6:51-53. The user request includes information used to associate desired program segments with corresponding URLs. <i>Id.</i> at 17:5-50.</p>
receiving the ones of the plurality of songs from the central server.	<p>Logan discloses receiving songs requested by the playback unit from the server (central server).</p> <p>“The host server 101 periodically transmits a download compilation file 145 upon receiving a request from the player 103.” Logan at 6:51-56 (emphasis added); <i>see also id.</i> at 8:20-38 and Fig. 2.</p>

Claim 14	The Logan Patent
<p>The method of claim 9 wherein the electronic device is one of a plurality of electronic devices associated with a personal audio network comprising the plurality of electronic devices and a personal audio network server, and</p>	<p>Logan discloses that the player (electronic device) is associated with a server, an FTP site and devices associated with URLs (electronic devices) associated with a personal audio network comprising the plurality of electronic devices and a personal audio network server.</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added); <i>see also id.</i> 6:48-48, 8:29-34, 11:41-52 (disclosing passwords), 17:5-24, 27:24-29.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15 (emphasis added).</p> <p>“The host organizes the program segments in accordance with preferences associated with each subscriber.” Logan, Abstract.</p>
<p>receiving the playlist assigned to the electronic device comprises receiving the playlist from the personal audio network, wherein the personal audio network server enables a user to assign the playlist to the electronic device; and</p>	<p>Logan discloses that receiving the session schedule (playlist) assigned to the player (electronic device) comprises receiving the playlist from the host or server (personal audio network), wherein the host or server (personal audio network server) enables a user to assign the session schedule (playlist) to the player (electronic device).</p> <p>“[T]he audio program player plays program segments in an order determined by a session schedule which identifies an ordered sequence of program segments. The session schedule is preferably created in the first instance by a server subsystem which develops and periodically transmits . . . the session schedule to the player.” Logan, 2:44-50 (emphasis added); <i>see also id.</i> at 7:1-13.</p>

Claim 14	The Logan Patent
receiving the information comprises receiving information from the personal audio network server enabling the electronic device to obtain the ones of the plurality of songs from the at least one remote source.	<p>Logan discloses that receiving the information comprises receiving information from the host or server (personal audio network server) enabling the player (electronic device) to obtain the ones of the plurality of songs from the at least one remote source.</p> <p>“[A]dditional programming which fits the subscriber’s indicated subject matter preferences, along with additional programming which the server includes as being of particular interest, is identified in a catalog (as periodically supplemented by a download file seen at 308 in FIG. 4) and presented to the user in the form of a proposed program schedule together with a catalog of additional selections which may be substituted or inserted into the proposed schedule.” Logan (emphasis added), 9:36-42; <i>see also id.</i> 7:10-13, 17:5-50, 19:12-15 and 27:24-29.</p>

F. Ground V: The Combination of the Logan Patent and the Lau Application Renders Obvious Each of Claims 4 and 12 Under 35 U.S.C. § 103

The Logan patent discloses a host server that assigns a playlist to a player device, and that also provides the player device with the network address, such as a URL, of the Internet location from which the playback unit may obtain songs in the playlist. Ex. 1004, 2:47-50, 17:5-24, 18:60-65, 27:24-29 and Fig. 1. When the user of the player device desires to play back songs on the playlist, the player issues FTP download requests from the host server by specifying the URLs of the needed files. Ex. 1004, 19:12-15 and 8:24-29.

Lau discloses, in the context of a content distribution system and network, that when a direct connection between a content-requesting device and a target device is possible, the content-requesting device can obtain desired content from the target device, and a central server monitoring the communications between the requesting device and the target device need not obtain the content from the target device and provide it to the requesting device. Ex. 1005, page 4, lines 9-11 and page 5, line 22 – page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server can obtain the content from the target device and provide it to the requesting device. *Id.*

Based on the above disclosures, a POSA would have reason to implement Lau's disclosure that a content-requesting device (i.e., the player device of Logan) can acquire content, such as a song from a target device (i.e., the location on the Internet at which the song is stored), without requiring the central server (i.e., the host server of Logan) to obtain the song on its behalf. A POSA would recognize that doing so would lessen the processing load of the central server and would likely provide quicker access to content. Jeffay Dec. ¶ 56. Further, a POSA would have reason to implement Lau's disclosure that the central server (i.e., the host server of Logan) may monitor the communications between the content requesting device (i.e., the player device of Logan) and the target device (i.e., the location on the Internet at which the song is stored), and, where such communication is not

possible, obtain the song on behalf of the requesting device and serve it to the requesting device. Jeffay Dec. ¶ 56. A POSA would also recognize that doing so would render the network of Logan more robust, because the player device would have an additional channel through which it could obtain the song from the host server, but only when the player device is unable to obtain the song directly from the target device (i.e., the location on the Internet at which the song is stored). Jeffay Dec. ¶ 56. Combining such features is at most the mere combination of known elements according to a known method to yield predictable results, or simple substitution of one known element for another to obtain predictable results. Jeffay Dec. ¶ 56.

Claim 4	The Combination of Logan and Lau
The method of claim 1 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, the method further comprising:	<p>Logan discloses that the player (electronic device) is associated with a host server, an FTP server, or a device associated with a URL (an associated electronic device that is a remote source).</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added); <i>see also id.</i> 8:29-34, 11:41-52 (disclosing passwords), 17:5-24, 27:24-29.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15 (emphasis added).</p>

Claim 4	The Combination of Logan and Lau
<p>receiving a request for the ones of the plurality of songs from the electronic device if the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs;</p>	<p>Lau discloses receiving a request for the ones of the plurality of songs from the electronic device if the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs.</p> <p>A server may monitor the requesting device's attempt to establish a direct connection to the target device to obtain content from the target device. Lau, page 4, lines 9-11 and page 5, line 22-page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server may request and obtain the content from the target device and provide it to the requesting device. <i>Id</i></p>
<p>obtaining the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and</p>	<p>Lau discloses obtaining the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>If a direct connection between the requesting device and the target device is not possible, then the server may request and obtain the content from the target device and provide it to the requesting device. Lau, page 4, lines 9-11 and page 5, line 22-page 6, line 2.</p>
<p>providing the ones of the plurality of songs to the electronic device.</p>	<p>Lau discloses providing the ones of the plurality of songs to the electronic device.</p> <p>If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device. Lau, page 4, lines 9-11 and page 5, line 22 – page 6, line 2.</p>
Claim 12	The Combination of Logan Patent and Lau

Claim 12	The Combination of Logan Patent and Lau
<p>The method of claim 9 wherein the electronic device is one of a plurality of associated electronic devices and the at least one remote source is at least one other of the plurality of associated electronic devices, and obtaining the ones of the plurality of songs comprises:</p>	<p>Logan discloses that the player (electronic device) is associated with a host server, an FTP server, or a device associated with a URL (an associated electronic device that is a remote source).</p> <p>“The Program_Segment record’s URL field specifies the location of the file containing the program segment in the file storage facility indicated at 304 in FIG. 4 (i.e., normally on the FTP server 125 seen in FIG. 1, but potentially including storage areas on the web server 141 or at any other accessible location on the Internet).” Logan, 18:60-65 (emphasis added); <i>see also id.</i> 11:41-52 (disclosing passwords), 17:5-24, 27:24-29.</p> <p>“The selection of files to download is preferably made by the player which issues FTP download requests from the server by specifying the URLs of the needed files.” <i>Id.</i> at 19:12-15.</p> <p>“The download file or files containing programming and advertising segments as well as subscriber specific data are designate[d] by filenames provided by the requesting client/player 103 and move from storage unit 145 utilizing the FTP server 125 and the Internet connection into local storage at 107 in the client/player 103.” Logan, 8:29-34 (emphasis added).</p>
<p>determining whether the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs;</p>	<p>Lau discloses determining whether the electronic device is unable to connect to the at least one other of the plurality of associated electronic devices to obtain the ones of the plurality of songs.</p> <p>A server may monitor the requesting device’s attempt to establish a direct connection to the target device to obtain content from the target device. Lau, page 4, lines 9-13 and page 5, line 22-page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server may request and obtain the content from the target device and provide it to the requesting device. <i>Id.</i></p>
<p>if the electronic device is unable</p>	<p>Lau discloses, if the electronic device is unable to connect to the at least one other of the plurality of associated electronic</p>

Claim 12	The Combination of Logan Patent and Lau
<p>to connect to the at least one other of the plurality of associated electronic devices: providing a request for the ones of the plurality of songs to a central server, wherein in response to the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and</p>	<p>devices: providing a request for the ones of the plurality of songs to a central server, wherein in response to the request, the central server uploads the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>Lau discloses that a server may monitor the requesting device's attempt to establish a direct connection to the target device to obtain content from the target device. Lau provisional application, page 4, lines 9-11 and page 5, line 22- page 6, line 2. If a direct connection between the requesting device and the target device is not possible, then the server may obtain the content from the target device and provide it to the requesting device. <i>Id.</i></p>
<p>receiving the ones of the plurality of songs from the central server; and</p>	<p>Logan discloses receiving the ones of the plurality of songs from the central server.</p> <p>The player issues FTP download requests from the host server by specifying the URLs of the needed files. Logan, 19:12-15. The host server obtains the files and transmits them to the player, which receives them. Logan, 6:51-56 and 8:20-38.</p>
<p>if the electronic device is able to connect to the at least one other of the plurality</p>	<p>Lau and Logan discloses that, if the electronic device is able to connect to the at least one other of the plurality of associated electronic devices, requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p>


Claim 12	The Combination of Logan Patent and Lau
of associated electronic devices: requesting the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices; and	<p>“Content that was broadcast at an earlier time can later be redistributed, with proper authorization, from user to user and device to device on the D2D network. Lau, page 7, lines 9-10; <i>see also id.</i> page 4, lines 9-13.</p> <p>The player issues FTP download requests from the host server by specifying the URLs of the needed files. Logan, 19:12-15. The host server obtains the files and transmits them to the player, which receives them. Logan, 6:51-56 and 8:20-38.</p>
receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.	<p>Lau discloses receiving the ones of the plurality of songs from the at least one other of the plurality of associated electronic devices.</p> <p>“Content that was broadcast at an earlier time can later be redistributed, with proper authorization, from user to user and device to device on the D2D network. Lau, page 7, lines 9-10; <i>see also id.</i> page 4, lines 9-13.</p> <p>The host server obtains the files and transmits them to the player, which receives them. Logan, 6:51-56 and 8:20-38.</p>

VI. CONCLUSION

Petitioner respectfully submits that, for the reasons set forth above, there is a reasonable likelihood that Petitioner will prevail on at least one claim. Accordingly, Petitioner respectfully requests that this Petition be granted and claims 1-4, 9-12 and 14 of the ‘952 Patent be found unpatentable.

Date: May 9, 2014

Respectfully submitted,

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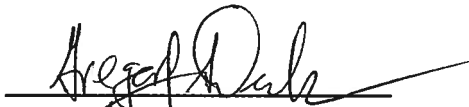
Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6 and 42.105, I hereby certify that on this 9th day of May 2014, the foregoing Petition for *Inter Partes* Review of U.S. Patent No. 8,045,952 Under 35 U.S.C. §§ 311-319 and 37 C.F.R. § 42.100 *et seq.*, together with Petitioner's Exhibits Nos. 1001-1007 and 1011-1015, was served via overnight courier on the following counsel of record for patent owner:

Concert Technology Corporation
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Date: May 9, 2014



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