UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITTER, INC.,

Petitioner

v.

YOUTOO TECHNOLOGIES, LLC,

Patent Owner

Case IPR2017-00830

U.S. Patent No. 9,083,997

PATENT OWNER PRELIMINARY RESPONSE

PURSUANT TO 37 C.F.R. § 42.107(a)

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LIST OF EXHIBITS

2001	Declaration of Michael I. Shamos, Ph.D.
2002	Joint Claim Construction and Prehearing Statement, *Youtoo Technologies, LLC v. Twitter, Inc.,* Civil Action No. 3:16-cv-00764-N (filed January 26, 2017)

Patent Owner, YOUTOO TECHNOLOGIES, LLC ("Youtoo"), respectfully submits this Preliminary Response to Petitioner's petition seeking *inter partes* review of claims 20-35 of U.S. Patent No. 9,083,997 ("the '997 patent"). This filing is timely under 35 U.S.C. § 313 and 37 C.F.R. § 42.107 because it is within three months of the February 24, 2017 date of the Notice granting the Petition a filing date. (Paper No. 3.)

I. INTRODUCTION

Petitioner hopes to convince the Board that if individual patent claim elements can be demonstrated as old, any claimed *combinations* of those elements may be considered obvious. But, a proper obviousness showing requires far more.

The Federal Circuit has soundly rejected such piecemeal obviousness analyses since its inception:

> That all elements of an invention may have been old (the normal situation), or some old and some new, or all new, is however, simply irrelevant. Virtually all inventions are combinations and virtually all are combinations of old elements. A court must consider what the prior art as a whole would have suggested to one skilled in the art.

Environmental Designs, Ltd. V. Union Oil Co., 713 F.2d 693, 698 (Fed. Cir. 1983).

Petitioner's proposed combinations of art fail to show that the claimed inventions would have been obvious to one of ordinary skill in the art. Further,

Petitioner's rationale for its proposed combinations falls well short of the "convincing line of reasoning" necessary to support its proposed, often systemic changes. (*See* MPEP §2144(I)-(II).) Thus, while individual elements of the claims may be found in the art, Petitioner fails to provide an articulable rationale demonstrating why one of ordinary skill would have arrived at the claimed arrangements of the '997 patent.

The Board should deny the petition on the merits for the reasons that follow.

II. THE '997 PATENT

The '997 patent describes a user-managed video recording and publishing system for use in social networking platforms or on other web-based or television-based platforms. (Ex. 1001, 6:54-57.) The system allows for a simplified user generation and publishing of video content by seamlessly integrating social networking platforms with live-capture video feeds. The content of the video feeds are further integrated with other media, such as live television broadcasts, to create user-generated social media and new television formats with social integration.

Prior to the '997 patent, architectures were limited to uploading of pre-recorded video files to an online service (*e.g.,* video sharing websites). Among other problems, such upload-based architectures were primarily storage locations only. These storage sites did not facilitate integration of any kind, or facilitate

creation and sharing of video content across social networking platforms, or foster collaboration with other users. The '997 patent addressed these drawbacks to provide for an entirely new landscape of user synergies and real-time collaboration and feedback.

Fig. 1A of the '997 patent shows an embodiment of the claimed video architecture and social media integration:

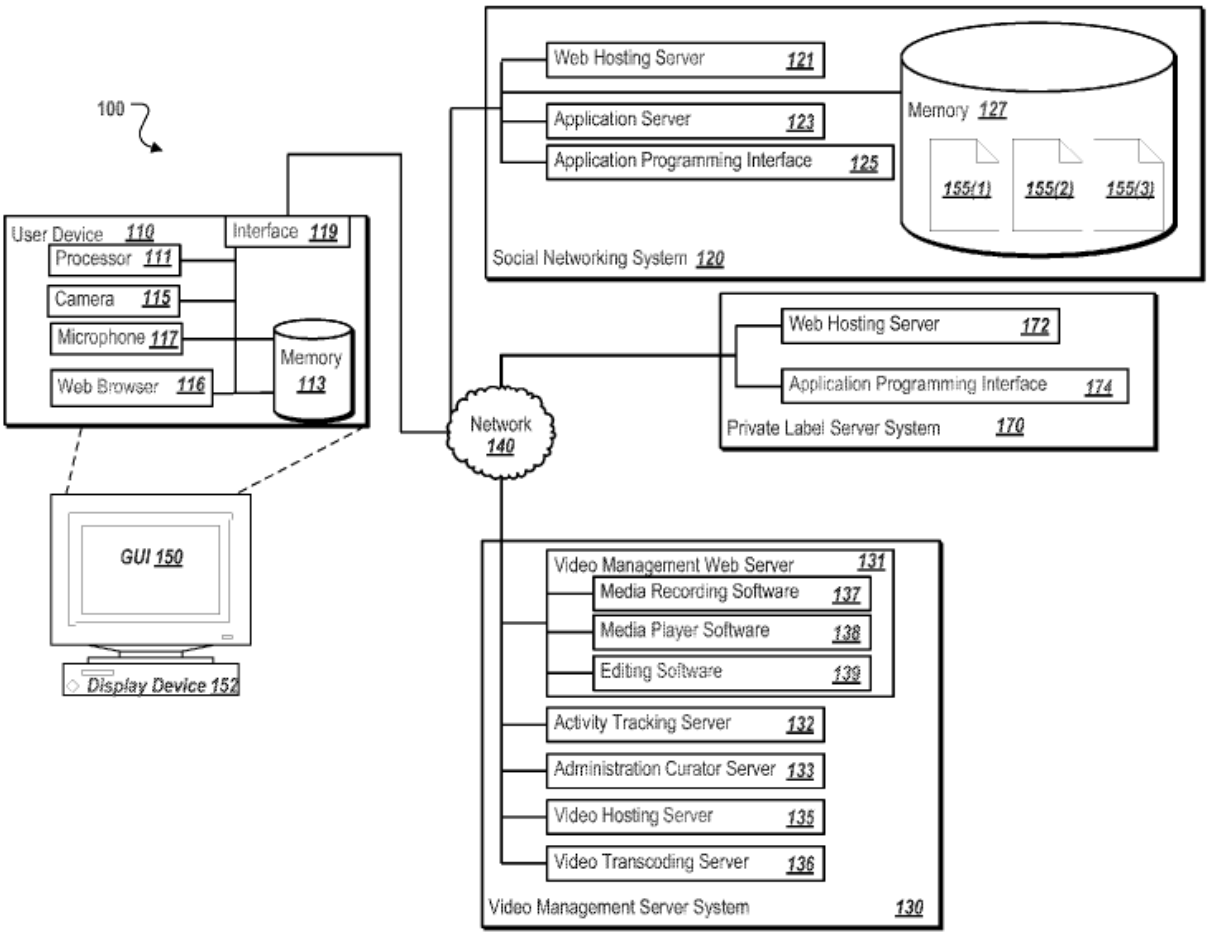

FIG. 1A

As shown in Fig. 1A, the architecture 100 may be provided as a set of interconnected software and server systems including a user device 110, a social

networking system 120, a video management server system 130, and a private label server system 170. (Ex. 1001, 6:45-51.)

Unlike prior, storehouse, video solutions, the '997 patent provides a client-side application (on user device 110) capable of seamlessly integrating and displaying content "supported by two different server systems (i.e., the video management server system 130 and the social networking system 120, respectively)." (Ex. 1001, 14:63-15:1.) As shown in Fig. 1A, the media recording software 137 is provided by the video management server system 130 different from the social networking system 120. To integrate the systems, an application programming interface 125 ("API") facilitates, among other things, "the exchange of information … between the social networking system 120 and the server system 130." (Ex. 1001, 9:11-19.) This allows, for example, for "the user's account with the social networking system [to] be leveraged to provide information to the video management server system 130 without requiring the user to have a separate account." (Ex. 1001, 16:45-67.)

When the media recording software is invoked, a video recorder interface is presented that "allows a user to record video to the server system 130 using the media recorder software 137 that executes on the server system 130." (Ex. 1001, 14:42-44, 17:2-8.) Then, with the above-described relationships between the user device 110, the social networking system 120, and the video management server

system 130 in place, "the user records a video using the video recorder interface and a corresponding video stream is received at the external server system." (Ex. 1001, 17:9-12.) The "video stream is converted into a video file and stored at the server system." (Ex. 1001, 17:15-19.)

Accordingly, unlike prior art video storehouses, the '997 patent provides systems and methods in which a client-side user records directly to an external server system in real time such that the video can be immediately shared across social media networks.

III. CLAIM CONSTRUCTION

For purposes of this *inter partes* review, the claims of the '997 patent are accorded a "broadest reasonable construction in light of the specification of the patent in which [they] appear[]." *See* 37 C.F.R. § 42.100(b).

In view of the above, claim interpretations submitted herein for the purpose of demonstrating why *inter partes* review should be denied are not binding upon litigants in any litigation, nor do such claim interpretations correspond to the construction of claims under the legal standards that are mandated to be used by the courts in litigation. The interpretation of the claims presented either implicitly or explicitly herein should not be viewed as constituting, in whole or in part, Patent Owner's own interpretation and/or construction of such claims for the purposes of

any current or future litigation. Instead, such constructions in this proceeding should be viewed only as constituting an interpretation of the claims under the broadest reasonable interpretation ("BRI") standard.

A. "communication interface between the web server system and the user content management server system" (claim 20) and "communication interface between the web server system and the one or more user content management servers" (claim 31)

Petitioner has not explicitly construed the term "communication interface" in this proceeding, but has done so in the concurrent litigation. (*Compare* Petition, pp. 11-14 to Ex. 2002, p. 9.) Petitioner takes the position in its petition filing that the "communication interface" may include standard hardware networking interfaces or a software programming interface commonly referred to as an "application programming interface" ("API"). (*See* Petition, pp. 35-37.) However, Petitioner's networking characterization ignores the features of the claims and is inconsistent with the '997 patent specification. As such, it is unreasonably broad. A definition that is so broad as to suggest that a standard network interface card is interchangeable with an API is technically unreasonable and ignores the teachings of every embodiment described in the '997 patent. (Ex. 2001 ("Shamos Decl.") ¶¶ 21-26.) "The broadest construction rubric … does not give the PTO an unfettered license to interpret claims to embrace anything remotely related to the claimed invention. Rather, claims should always be read in light of the specification and

teachings in the underlying patent." *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1260 (Fed. Cir. 2010).

In its use and context in claims 20 and 31, the '997 patent makes clear that "through" the recited "communication interface" "between" server systems, recording functionality on the management server system is provided (to a user device). This communication interface, as known in the art, and as explicitly described in the '997 patent, can only be a programmatic interface, such as an Application Programming Interface (API).

Implementation of the claimed features via a programmatic interface, such as an API, rather than a hardware network interface, is made clear by the text of the claims when read in light of the specification. For example, claim 20 recites that the communication interface is an **interface between** two different server systems (i.e., the web server system and the user content management server system) that serves as the mechanism **through** which a content capture **graphical user interface** is provided to a user.

Other claims in the '997 patent further reinforce the interpretation that the communication interface is a programmatic interface such as an API. For example, dependent claim 26 requires that information associated with user accounts for webpages hosted on the web server system is received at the management server system. This exchange of information between the different systems is made

possible by using an API and assists in providing a seamless experience to the user. (Ex. 1001, 9:9-19, 16:45-67.) Without a programmatic interface such as an API, this level of communication between server systems would not be possible.

As described throughout the '997 patent, APIs 125 and/or 174 are the only interfaces that provide a communication interface between a web-based server system (e.g., social networking system 120) and a separate and distinct content management server system (e.g., video management server system 130). (Ex. 1001, Fig. 1A, 10:26-37, 13:52-54, 13:64-67.) On the other hand, '997 patent does not describe a single instance of a hardware network interface between the web server system and the user content management server system providing such functionality. (Shamos Decl. ¶ 26.)

The specification of the '997 patent, from the basic framework established in the Abstract through the Summary of the Invention and each of the detailed embodiments, consistently and repeatedly teaches the importance of an API to facilitate communications between separate server systems. (Shamos Decl. ¶¶ 23, 25, 27.)

For example, the specification explains that "application programming interface 125 can facilitate the delivery of content (e.g., a video recording user interface, a video playback user interface, or an editing user interface) that is displayed within social networking webpages 155 and the exchange of information

(e.g., user demographic data, video viewing data, feedback data, link or image data for display within the social networking webpages 155) between the social networking system 120 and the server system 130." (Ex. 1001, 9:11-19.) In short, in order to invoke software execution, operate in real time for live feeds, and exchange data and functionality between disparate server systems as recited in the claims at issue, **a programmatic interface such as an API must be used**.

As such, the claimed "communication interface" functionality cannot, and is not, implemented with generic hardware interfaces providing network connectivity to computers on a network. Therefore, the "communication interface" of claims 20 and 31 should be interpreted as "a programmatic interface, such as an application programming interface (API), between the web server system and the user content management server system" (claim 20) and "a programmatic interface, such as an application programming interface (API), between the web server system and the one or more user content management servers" (claim 31). It is this interface that enables the operability of the other claimed features such as providing access to the (capture/recording) functionality on the (user content/video) management server system through the GUI.

(Shamos Decl. ¶¶ 14-28.)

IV. PETITIONER HAS FAILED TO SHOW A REASONABLE LIKELIHOOD OF SUCCESS FOR ANY OF ITS GROUNDS

A. Nassiri, in view of Bradford and Zhu, fails to teach "a communication interface" [API] (claims 20 and 31)

Claim 20 recites:

> A non-transitory computer storage medium encoded with a computer program, the program comprising instructions that when executed by data processing apparatus cause the data processing apparatus to perform operations comprising:
>
> providing a content capture user interface within displayed instances of a first graphical user interface that includes display elements hosted on a web server system in response to a user selection of a link included in a graphical user interface that includes display elements hosted on the web server system, wherein the content capture user interface is provided within a frame displayed in the first graphical user interface and the content capture user interface is adapted to allow users to provide user submissions to a user content management server system using controls included within the frame that includes the content capture user interface, and the user submissions are captured using content capture software executing on the user content management server system through a communication interface between the web server system and the user content management server system;
>
> receiving a plurality of user submissions, wherein each user submission defines content captured through the content capture user interface on a respective displayed instance of the first graphical user interface and each user submission is captured using the content capture software executing on the user content management server system;
>
> generating a plurality of user submission content files based on the received user submissions; and
>
> storing the user submission content files on the user content management server system.

Claim 20 thus recites that "user submissions are captured using content capture software executing on the user content management server system through a communication interface between the web server system and the user content management server system."

Similarly, claim 31 recites that "the user submissions are captured using content capture software executing on one or more of the user content management servers through a communication interface between the web server system and the one or more user content management servers."

As discussed in section III(A) above, the proper construction of "communication interface between the web server system and the user content management server system," taking into account the context of the claims and the specification, is "a programmatic interface, such as an application programming interface (API), between the web server system and the management server system."

Also discussed in section III(A) above, Petitioner points to several different elements of Nassiri and Zhu as possible communication interfaces, including interconnects for communicating through a "network 140" between a video host computing system and an enterprise computing system (Nassiri), an "interface 216" for enabling communication over a network (Zhu), and "APIs (Application

Program Interfaces)" (Zhu). (Petition, pp. 35-37.) These elements of Nassiri and Zhu do not render claims 20 or 31 of the '997 patent obvious.

In particular, Petitioner largely points to generic network connectivity elements such as "interconnects" and a hardware "interface." As the claims are directed to "software" for establishing a GUI interface, and do not recite any network elements, Petitioner's recitations of network interconnects and hardware interfaces are nonsensical. (Shamos Decl. ¶¶ 21-26.) And, while Petitioner has latched onto an "API" being used in Zhu, Petitioner does not provide any convincing rationale to replace generic network connectivity hardware with an API, nor is there one.

1. Nassiri's generic network interconnects are not APIs nor can they be

Petitioner asserts that Nassiri describes a network 140 including a video host computing system and an enterprise computing system, wherein "interconnects" between the systems constitute the "communication interface" of the '997 patent. (Petition, pp. 35-36.) Petitioner cites to ¶¶ 16 and 32 and Fig. 8 of Nassiri in support of its assertion.

Nassiri, in ¶ 16 and Fig. 8 (below), describes the general topology of its network 140, including a description that the systems "may be in communication

over one or more networks, wired or wireless, such as the network 140." (Ex. 1009 ¶ 16.)

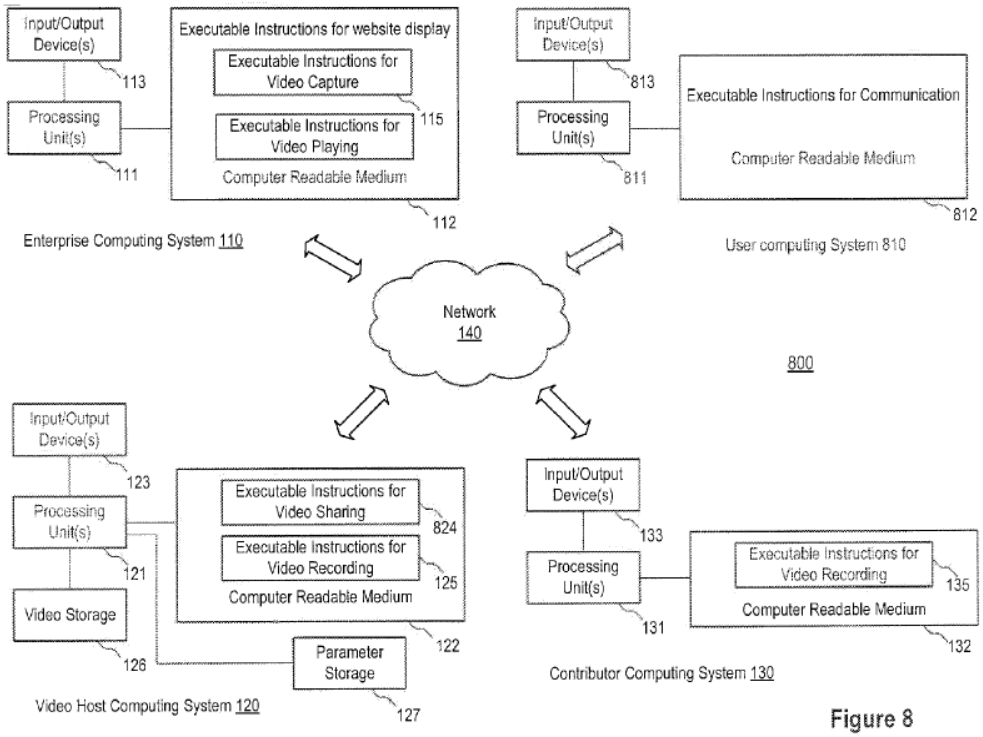

Figure 8

However, the mere mention of a network, and the mere mention that components of a network are interconnected, does not show, in any way, that recording functionality on the management server system is provided (to a user device) through "a programmatic interface, such as an application programming interface (API), between the web server system and the management server system," as required by the communication interface of claims 20 and 31.

Accordingly, Nassiri does not, by itself, disclose or suggest a "communication interface" as required by claims 20 and 31.

2. Zhu's interface 216 is a networking interface, not an API

Petitioner asserts that Zhu describes multiple communication interfaces in the form of "interfaces 216 for enabling communication over network 180." (Petition, p. 36.) Interfaces 216 are shown in Fig. 2A of Zhu:

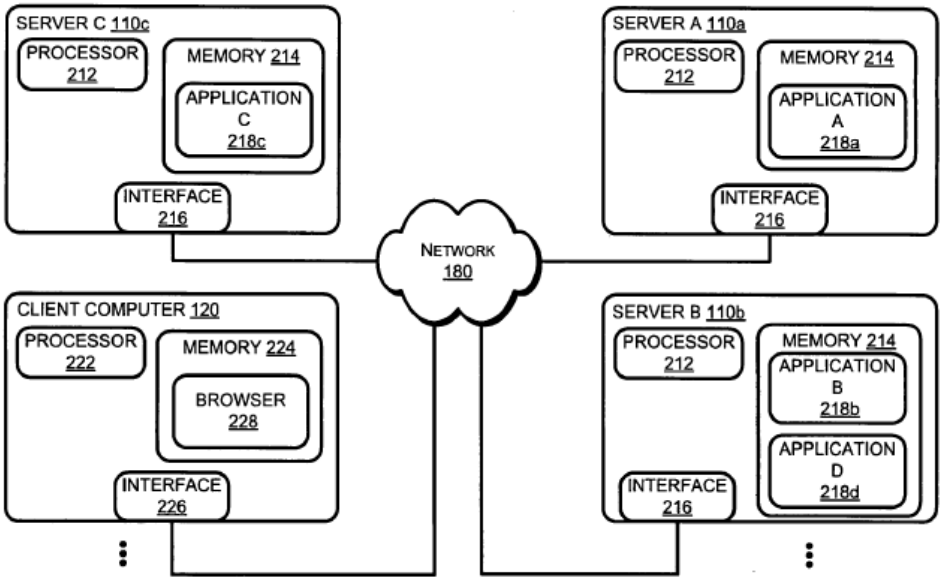

Fig. 2A

However, interfaces 216 represent hardware network interfaces of the application servers 110. (Ex. 1013 ¶ 25.) A network interface simply provides a connection to the network; it is not "a programmatic interface, such as an application programming interface (API), between the web server system and the management server system." That is, the existence of a network interface does not show, in any way, that recording functionality on the management server system is provided (to a user device) through "a programmatic interface, such as an application programming interface (API), between the web server system and the

management server system," as required by the communication interface of claims 20 and 31.

Accordingly, Zhu's interface 216 does not cure the "communication interface" deficiencies of Nassiri discussed above.

3. There is no rationale for replacing generic network interconnectivity hardware with an API to a standard storehouse video platform

Petitioner further asserts that Zhu describes using APIs and, because Nassiri's describes two distinct computing systems (the video host computing system 120 and the enterprise computing system 110), it would have been obvious to incorporate API functions for communicating amongst the two computing systems. (Petition, pp. 21-23.)

This is wrong.

There is no reason to modify Nassiri absent impermissible hindsight reasoning, as Petitioner's assertions of deficiencies with respect to Nassiri do not exist. MPEP § 2145(X)(A); *In re McLaughlin*, 443 F.2d 1392, 1395 (CCPA 1971). Petitioner's assertion that a POSITA would be motivated to implement Zhu's APIs in a system combining Nassiri and Bradford fails for at least three reasons.

First, there is no deficiency in Nassiri that would be improved by the addition of APIs. In its discussion of Nassiri and Bradford, Petitioner extensively discusses the uses and benefits of iframe code in the system of Nassiri and

Bradford. In particular, Nassiri describes that "an HTML iframe may be used to embed a video recorder [provided by video host computing system 120] in a webpage provided by the enterprise computing system [110]." (*See* Petition, pp. 14-16; Ex. 1009, Fig. 8.) Petitioner explains that the use of iframes allows for loading the video recorder only when the user intends to do so, allows for targeting specific iframes, saves valuable resources on the video host, and decreases webpage loading times. (Petition, pp. 17-21.)

Therefore, Nassiri's and Bradford's solution for "creat[ing] … a first website [within a webpage] provided by a second website" (i.e., the purpose served by Zhu as explained in the Petition at p. 22) is to include iframe code in a first website pointing to a second website. The iframe code is simple, unobtrusive, and can be implemented with a few typed characters in HTML code that is already compatible with every computing system capable of browsing webpages: "<iframe style="height:460px; width:820px; border:0px" border:0 frameborder=0 width="820" height="460" src=http://record.videogenie.com/media/?uid:l23A45B6789CO0Dl2E></iframe>." (Ex. 1009 ¶ 19; *see also* Petition, p. 18, showing another example of iframe code.) Petitioner fails to identify any deficiency with this approach that would be improved by the APIs of Zhu.

Second, Nassiri's architecture and purpose fail to suggest any reason for implementing APIs. Petitioner correctly states that the video host computing system 120 and the enterprise computing system 110 of Nassiri may be two distinct computing systems. (Petition, p. 22.) However, there is no basis for Petitioner's conclusory assertion that "software developers … would need a standardized software solution for interfacing at the application level." (Petition, pp. 22-23.) Nassiri's operating principle is systemically different. As discussed above, Nassiri's video host computing system merely functions as a storehouse for video files.

Unlike the '997 patent, which does use an API, Nassiri does not allow an online user to both "record and publish" video content through a social media account. (Ex. 1009 ¶ 15.) Nassiri serves an entirely different purpose: It allows businesses to solicit video feedback clips from customers ("contributors") that are later reviewed (by the business) and, if then desired, published by the business. (Ex. 1009 ¶¶ 15, 48, 56.) As contributors do not record and publish content through their own accounts in the enterprise computing system (which do not exist in Nassiri), Nassiri does not suggest the need for an API to facilitate the exchange of information between its enterprise computing system and video hosting server.

Third, Petitioner does not clearly articulate where, why, or how an API is to be integrated with Nassiri's and Bradford's iframe solution. Instead, Petitioner

appears to merely present the general existence of APIs as a necessary, universal, and standardized interface for communicating amongst computing systems. However, Nassiri needs only to generate a webpage within a webpage, and already implements a simple and direct solution for this: Including iframe code that points directly to the desired webpage. In Nassiri, the iframe code directly loads the video recorder and is a seamless operation for the user. (Ex. 1009 ¶¶ 18-19.) Nothing more is needed. Introducing APIs would require additional development and programming resources, thus unnecessarily complicating the implementation of Nassiri's computing systems 110 and 120.

Lastly, even if the recited "communication interface" and every other element of the claim was disclosed (separately) by prior art, Petitioner failed to provide "articulated reasoning with some rational underpinning" from which the Board could determine that it was obvious to combine each of these elements in a ***single invention***. Instead, Petitioner merely points to each individual element of the claim and argues that each element is individually obvious in light of one or more pieces of prior art. Notably, Petitioner relies on a combination of Nassiri and Bradford as disclosing some elements (e.g., 20.1.1, 31.1.1), while relying on a combination of Nassiri and Zhu to disclose others (e.g., 20.2.4, 31.2.4). But, Petitioner does not in fact allege or explain why a combination of ***all three prior art references*** (Nassiri, Bradford, Zhu) would have been made by a person of

ordinary skill in the art, and as explained above, the iFrame architecture provided by Petitioner's combination of Nassiri and Bradford obviated any need for the combination of Bradford with the API disclosed in Zhu. Thus, Petitioner's proffered obviousness grounds fall far short of demonstrating a reasonable likelihood of success of proving the challenged claims unpatentable, by failing to present an adequate rationale by which a person of ordinary skill in the art would combine the elements that are allegedly present in the prior art to form these challenged claims. *See KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 127 S.Ct. 1727, 1741 (2007).

In sum, Nassiri's operating principle is systemically different than that of the '997 patent. Nassiri's simple storehouse architecture does not require the server-to-server interactivity claimed in the '997 patent. Accordingly, absent impermissible hindsight reconstruction based on the '997 patent's own use of APIs, Petitioner has not established a *prima facie* case of obvious explaining why a person of ordinary skill in the art would have used APIs in light of Nassiri's existing iframe system that already saves valuable resources on the video host and decreases webpage loading times.

B. Nassiri's Storehouse architecture is fundamentally different from the video stream solution claimed in the '997 patent (claim 32)

Dependent claim 32 recites:

> The system of claim 31 wherein the user submissions comprise user-generated video content and the user-generated video content is received by the one or more user content management servers as the content is captured through the content capture user interface.

Claim 32 builds upon the claimed features in claim 31, which requires, on the content management servers, "generat[ing] a plurality of user submission content files based on the received user submissions; and stor[ing] the user submission content files on the user content management server system."

The claim language highlighted above requires that a video stream is recorded and converted into a video file **by the server system, not the user device**. This fundamental architectural difference cannot be reconciled with Petitioner's strained theories.

Nassiri, in view of Bradford, fails to disclose or suggest these features because Nassiri describes a storehouse server architecture. Nassiri merely acts as a storehouse for video files that the user device has captured and stored locally (store-and-forward), while the claims of the '997 patent require a server that is the recipient of live captured video and wherein the process of generating video files is performed at the server. Nassiri's fundamental deficiencies cannot be reconciled because its storehouse server has no need to manage the control or manipulation of a real-time video stream it does not even capture in the first instance.

1. The claims require recording captured video from a user device to a server system, with the server system processing the captured video to generate a video file

Fig. 2A, below, illustrates a flowchart of recording and presenting contents in a social networking website from a server system according to the '997 patent.

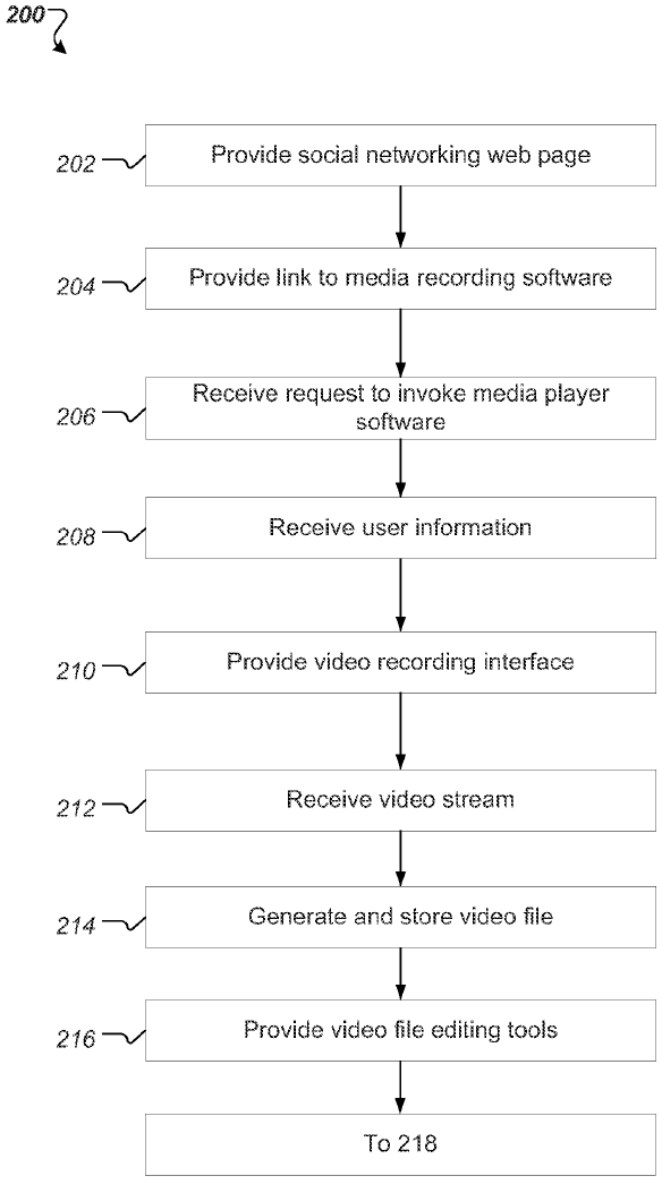

FIG. 2A

First, a social networking web page is provided to a user. (Step 202; Ex. 1001, 16:26-34.) The web page includes a link to media recording software, which the user selects to send a request to invoke the media recording software. (Steps 204-206; Ex. 1001, 16:34-48.) Authorization conditions are presented to the user, which, when accepted by the user, are used to leverage the user's account with the social networking system 120 for use with the video management server system 130. (Step 208; Ex. 1001, 16:48-67.)

Through an API between the server systems to enable GUI operation, the social networking system 120 then provides a video recording interface from video management server system 130. The "video recording interface is provided through an [API] … and … allow[s] the user to **record video to the external server system** through recording controls of the video recording interface included … within the … social networking webpage." (Step 210; Ex. 1001, 17:1-8.)

The user, using hardware integrated with or connected to the user device, then "records a video using the video recorder interface and a corresponding video stream is received at the external server system." (Step 212; Ex. 1001, 17:9-15.) The server system converts the video stream, which had been recorded **from the user device to the external server system**, into a video file and stores the video file. (Step 214; Ex. 1001, 17:15-16.) The conversion of the video stream into a

video file may be performed in real time (i.e., conversion may be performed as the video is being recorded/streamed to the server system). (Ex. 1001, 17:16-19.)

Accordingly, as described in the specification, **the reception of content in claim 32 is performed by the server system**, which receives a video stream from the user device as the video is being captured in real time, and **it is the server system that then converts the video stream into a video file**.

2. Nassiri's server system is a simple remote storehouse for already-encoded video files with no need for further processing

Petitioner asserts that Nassiri teaches video being recorded to a video host computing system as the video is captured, citing to Fig. 2 and ¶¶ 15, 28, 35, and 38 of Nassiri in support of its assertion. (Petition, pp. 41-42.)

This is wrong.

First, Nassiri explicitly discloses that its transmission and storage of "videos" is performed with video **files**:

> Video, as used herein, generally refers to electronically encoded data representing a captured video and/or audio data. **The videos may generally be transmitted and stored in any suitable file format, including but not limited to, .mpeg files, or .avi files**.

(Ex. 1009 ¶ 15, emphasis added.) In other words, a "video" in Nassiri is a video **file** that has been generated from captured video data on a user device (i.e., video

data from a camera) and formatted as an MPEG file, for example. "Video" is captured video data that has been encoded and encapsulated in a video file on a local user device. "Video" is not a video feed stream as described and claimed by the '997 patent.

Second, Petitioner points to ¶ 28 of Nassiri, which states that "video generated using the video recorder may be transmitted to the video host computing system 120 for storage in video storage 126 … the video may be transmitted to the video host computing system while it is being recorded." Similarly, ¶ 35 of Nassiri states "the recorded video may be received and stored" and "the video may be transmitted to the video host computing system 120 … as it is being recorded." (Petition, pp.. 42, 56.) These cited paragraphs make clear that the data being transmitted to the video host computing system 120 is a video **file** (mpeg or other format) that has already been generated by the user device or that is in the process of being generated by the user device. In Nassiri, even when the transmission occurs while the video is being recorded, the transmission is simply a video file transfer to a storehouse. These store-and-forward examples are not a video stream as described and claimed by the '997 patent.

Third, Nassiri fails to disclose or suggest that the video host computing system 120 performs any action with the received data other than serving as a simple storehouse. As shown in the flowchart in Fig. 2 of Nassiri, annotated below,

the video host computing system 120 merely "Receive[s] and store[s] recorded video."

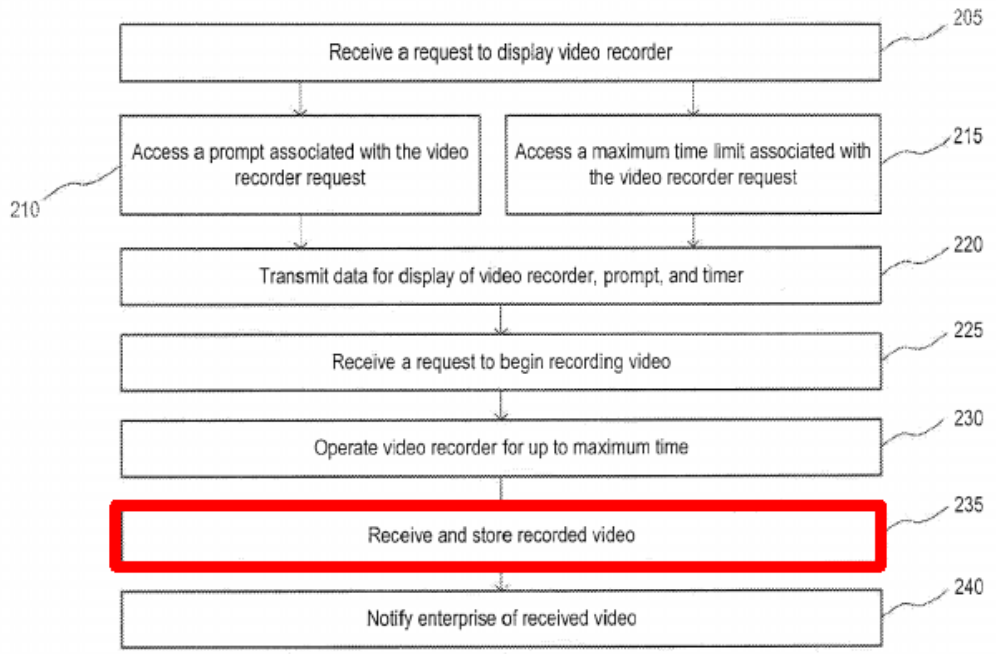

Figure 2

(Petition, pp. 37-38, 55.) Thus, as a storehouse, the video host computing system 120 only receives video files that do not require further processing. Video host computing system 120 does not, and cannot, receive, capture, or manipulate a real time video stream. Therefore, whereas the claims recite that video is recorded to the management server system as the video is captured, and that the management server system generates and stores a video file using the received video stream, Nassiri's video host computing system is simply devoid of any such video processing functionality.

Also, as shown in Fig. 2, the next step after receiving and storing the recorded video is to "Notify enterprise of received video." Nassiri describes that this notification may take place when the video is received or even weeks later. (Ex. 1009 ¶ 36.) Since real-time processing is not a critical requirement in Nassiri, there is no reason to assume that Nassiri contemplates or would even benefit from transmitting a live captured video stream to the video host computing system.

3. Nassiri's video host is a storehouse that does not perform (and would not be adapted to perform) the video stream manipulation functions required of the video management server system in the '997 patent

As discussed above, Nassiri describes a system and method in which a user device locally generates video files, and in which an external server system functions as a remote storehouse for the locally generated video files.

In contrast, claim 31 of the '997 patent, as modified by claim 32, requires that user-generated video content be "captured using [video] content capture software executing on one or more of the user content management servers" and "received by one or more user content management servers **as the [video] content is captured through the content capture user interface**" (emphasis added). Nassiri cannot disclose or suggest this specific arrangement of features because Nassiri describes that the user device encodes and records video **files** of captured video data locally, and because Nassiri's video host computing system 120 has no

need to control or manipulate a video stream it does not capture in the first instance. Nassiri's user device captures the video locally and the video host computing system 120 merely acts as a storehouse for files that the user device is finished manipulating.

Additionally, claim 31 of the '997 patent, as modified by claim 32, requires "generating a plurality of user submission [video] content files based on the received user submissions" (the received user submissions having been "received" at the management server system). Nassiri cannot disclose or suggest generating something at the server that has already been generated on the user-side. In Nassiri, the video host computing system 120 merely receives a video **file**, not video data captured in real time. Because the video file is already encoded and encapsulated in a specified file format (e.g., in the mpeg format), the video host computing system 120 cannot, and would not "generate a video file using the received video stream."

Accordingly, because Nassiri describes a user device that captures video data and encapsulates the captured video data as a video file before sending the video file to the video host computing system 120, Nassiri fails to disclose or suggest the claimed features relating to recording video to the management server system as the video is captured, as discussed in detail above.

C. Petitioner's rejection of claim 21 falls together with the rejection of claim 32

Petitioner's ground of rejection regarding claim 21 and Petitioner's ground of rejection regarding claim 32 must fall together. Petitioner has relied on the same interpretation of Nassiri for both, which is flawed for the reasons already discussed above in section IV(B). (*See* Petition, pp. 41, 42, 56.)

V. CONCLUSION

For at least the reasons noted above, Petitioner has failed to meet its burden that any claim is rendered obvious. The arguments in the Petition fall far short of demonstrating a reasonable likelihood of success of proving the challenged claims unpatentable. Therefore, the Board must decline to institute *inter partes* review of the '997 Patent.

Respectfully submitted,

Oblon, McClelland, Maier & Neustadt, LLP

Dated: May 24, 2017

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies service of Patent Owner's Preliminary Response and Exhibits 2001-2002 on the counsel of record for the Petitioner by filing these documents through the PTABE2E System as well as delivering a copy via electronic mail to the following address:

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that Patent Owner's Preliminary Response complies with the type-volume limitation of 37 C.F.R. § 42.24(a). The word count application of the word processing program used to prepare this Response indicates that this Response contains 5,504 words, excluding the parts of the brief exempted by 37 C.F.R. § 42.24(a)(1).

Respectfully submitted,

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