Trials@uspto.gov
571-272-7822

Paper No. 10
Date Entered: July 1, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

ROVI GUIDES, INC.,
Patent Owner.

Case IPR2019-00281
Patent 9,621,956 B2

Before KARL D. EASTHOM, LYNNE E. PETTIGREW, and KEVIN W. CHERRY, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314(a)

I. INTRODUCTION

Petitioner, Comcast Cable Communications, LLC, filed a Petition pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–20 of U.S. Patent No. 9,621,956 B2 (Ex. 1201, the "'956 Patent"). Paper 2 ("Pet."). Patent Owner, Rovi Guides, Inc., filed a Preliminary Response. Paper 6 ("Prelim. Resp.").

Under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a), we have authority to institute an *inter partes* review if "the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). After considering the evidence and arguments in the Petition and Preliminary Response, we determine that the information presented shows a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one of the challenged claims of the '956 patent. Accordingly, we institute an *inter partes* review of claims 1–20 of the '956 patent with respect to all claims and all unpatentability grounds asserted in the Petition. *See SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018); *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) ("interpreting the statute to require a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition"). Guidance on the Impact of SAS on AIA Trial Proceedings (April 26, 2018) (available at https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/trials/guidance-impact-sas-aia-trial).

II. BACKGROUND

A. Real Parties-in-Interest

Petitioner identifies as the real parties-in-interest the following: Comcast Corp.; Comcast Business Communications, LLC; Comcast Cable Communications Management, LLC; Comcast Cable Communications, LLC; Comcast Financial Agency Corp.; Comcast Holdings Corp.; Comcast Shared Services, LLC; Comcast STB Software I, LLC; Comcast of Santa Maria, LLC; and Comcast of Lompoc, LLC. Pet. 1. Patent Owner names as the real parties-in-interest Rovi Guides, Inc. and Rovi Corp. Paper 4, 1.

B. Related Matters

The parties state that *Rovi Guides, Inc. v. Comcast Corp.*, No. 2:18-cv-00253 (C.D. Cal.), filed January 10, 2018, and *In re Digital Video Receivers and Related Hardware and Software Components*, No. 337-TA-1103 (ITC), filed February 8, 2018, each involve the '956 patent. Pet. 1, Paper 4, 1.

In addition to the instant Petition, Petitioner filed four other petitions (IPR2019-00279, IPR2019-00280, IPR2019-00282, and IPR2019-00283) requesting *inter partes* review of claims 1–20 of the '956 patent. *See* Paper 4, 1; Paper 7, 2, Paper 8, 1–5.

C. The '956 patent

The '956 patent describes a transport control interface "to provide information, control or both for live and recorded video programming." Ex. 1201, Abstract. Figure 32 of the '956 patent follows:

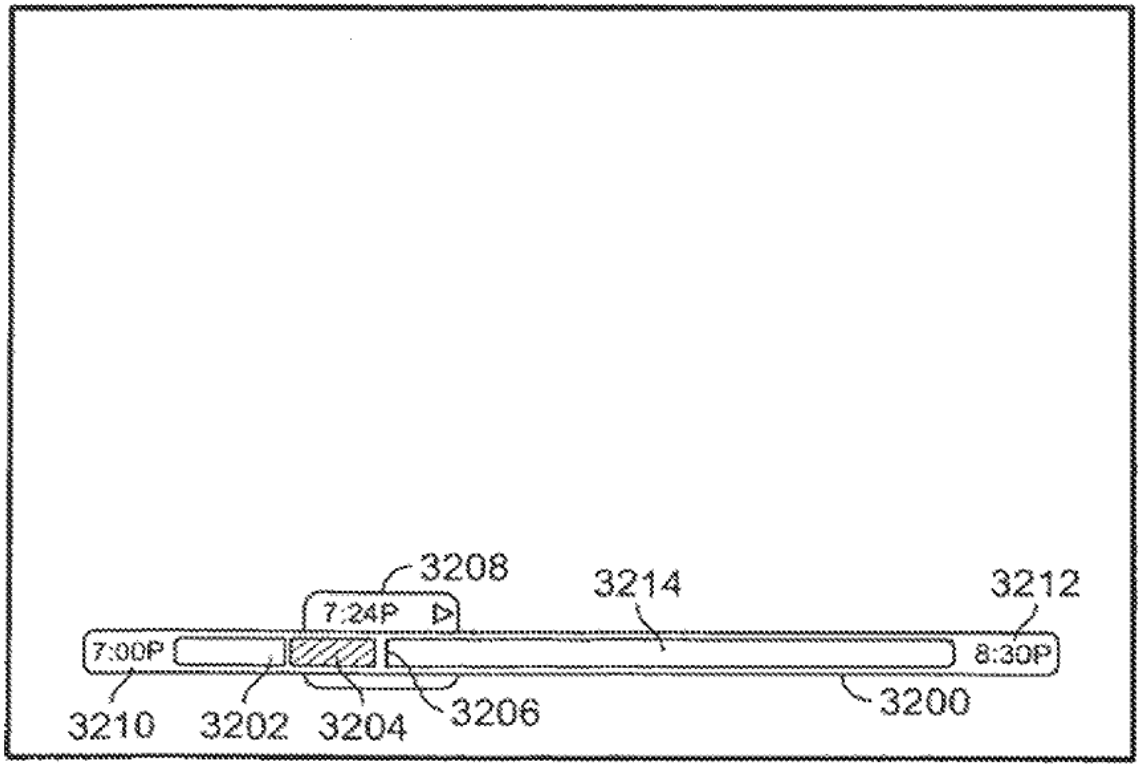

FIG. 32

Figure 32 illustrates an example of a transport control bar 3200 for currently viewed live broadcast video, with buffer region 3204 colored to indicate an automatically recorded portion of the video (*id.* at 31:7–12), and control block 3208 representing "the current time and the relative time position in the current program or the time span between start time 3210 and end time 3212, which may also be graphically indicated by tab 3206" (*id.* at 30:27–45).

The system provides the automatic recording and the transport control bar, respectively, for example, "when the user tunes to the currently broadcasting channel" (*see id*. at 30:6–7) and similarly "in response to the user tuning to a broadcast channel" (*see id.* at 30:31–32). Regions 3202 and 3214 respectively represent video portions of the live broadcast not recorded and not yet recorded. *See id.* at 31:4–25. "In some embodiments of the

present invention the visual appearance of a buffer region that designates automatically recorded content may be distinguishable from the visual appearance of a region of the transport control bar that designates content that is being recorded at the request of the user." *Id.* at 34:48–53.

The specification describes the "buffer" in general terms: "[T]he buffer region applies to any suitable indication of content being recorded, including automatic recording, manual recording, programmed recording, any other suitable type of recording, or any combination of thereof." *Id.* at 31:52–56.

The specification describes automatic recording, which as noted above, appears to occur in response to a user tuning to a channel, and the specification also describes user-initiated recording:

> [T]ransport control bar 3200 may also display information when the user activates a recording option to record a particular program (as opposed to automatic recording of content into a buffer). For example, the interactive television program guide application may display transport control bar 3200 when the user presses a "record" button on a remote control to record content on a currently tuned channel. Buffer region 3204**,** in such a situation, may indicate the content saved into memory sines [sic] the recording began. Tab 3206 may be moved within region 3204 in order [to] perform any suitable action (e.g., rewind) while the program continues to be recorded (and region 3204 continues to expand to the right). Start time 3210 and end time 3212 may indicate the actual start time and end time of the program being recorded.

Id. at 31:36–52.

D. Illustrative Claim

Petitioner challenges claims 1–20 of the '956 patent. Pet. 8. Method claims 2–10 ultimately depend from independent method claim 1, and system claims 12–20 ultimately depend from independent system claim 11. Independent method claim 1 materially tracks independent system claim 10 and illustrates the claimed subject matter:

> 1. A method for providing information about a video program, the method comprising:
>
> generating for display, using control circuitry, the video program and a transport control interface that indicates a time length of the video program, wherein the transport control interface indicates:
>
> a first stored time segment of the video program which is recorded in response to a specific user command, and
>
> a second stored time segment of the video program which is automatically recorded into buffer memory,
>
> wherein the first stored time segment and the second stored time segment are visually distinguished.

Ex. 1201, 39:31–43.

E. Evidence Relied Upon

Petitioner relies on the following references:

U.S. Patent App. Pub. No. US 2003/0067886 A1, filed Sept. 13, 2002, published Apr. 10, 2003 (Ex. 1202, "Son");

Su-Woon Jung, Eun-Sam Kim, and Dong-Ho Lee, "Design and Implementation of an Enhanced Personal Video Recorder for DTV," IEEE Trans. Cons. Electr'cs., Vol. 47, No. 4, Nov. 2001 (Ex. 1205, "Jung");

U.S. Patent App. Pub. No. 2001/0051037 A1, filed Mar. 19, 2001, published Dec. 13, 2001 (Ex. 1206, "Safadi");

U.S. Patent App. Pub. No. 2004/0078817 A1, filed May 14, 2002, published Apr. 22, 2004 (Ex. 1207, "Horowitz");

U.S. Patent App. Pub. No. 2003/0142956 A1, filed Mar. 4, 1999, published July 31, 2003 (Ex. 1208, "Tomita"); and

U.S. Patent No. 5,371,551, filed Oct. 29, 1992, issued Dec. 6, 1994 (Ex. 1222, "Logan").

Additionally, Petitioner relies on the Declaration of Dr. Vernon Thomas Rhyne, III (Ex. 1211).

F. Grounds Asserted

Petitioner asserts the following grounds of unpatentability under 35 U.S.C. § 103(a) (Pet. 8):

Claims Challenged	References
1, 2, 4–6, 11–12, and 14–16	Son and Jung, with and without Logan
3 and 13	Son, Jung, and Horowitz, with and without Logan
7–10 and 17–20	Son, Jung, and Tomita, with and without Logan
7–10 and 17–20	Son, Jung, Tomita, and Safadi, with and without Logan
5 and 15	Son, Jung, and Safadi, with and without Logan

III. DISCUSSION

A. Discretionary Denial

Patent Owner asserts the panel should "exercise its discretion under 35 U.S.C. §§ 314(a) and 325(d) and refuse to institute trial on any of Petitioner's five redundant petitions." Prelim. Resp. 2. After Patent Owner filed its Preliminary response, we issued an Order requiring that Petitioner provide a Notice identifying a ranking of the five petitions in the order in which it wishes the Board to consider the merits (if the Board institutes any of the petitions), and a succinct explanation of any material differences between the petitions addressing why the Board should exercise its discretion to consider instituting on more than one petition. Paper 7 ("Order"), 4. The Order invites Patent Owner to respond. *Id.*

Pursuant to the Order, Petitioner requests we consider the Petition in the instant proceeding first. Paper 8, 1. Patent Owner does not take a position on the relative strength of the petitions beyond what the Preliminary Responses assert. *See* Paper 9, 5. For the reasons below, we determine that Petitioner establishes a reasonable likelihood of prevailing in demonstrating the unpatentability of claims 1–20 in this Petition. For the reasons articulated in a decision mailed concurrently herewith, we deny institution in IPR2019-00279, IPR2019-00280, IPR2019-00282, and IPR2019-00283.

Regarding 35 U.S.C. § 325(d), Petitioner contends "[t]he Examiner's reasons for allowance alleged that the prior art failed to disclose a 'transport control interface' that indicates the claimed 'first stored time segment' and 'second stored time segment' of the video program, wherein said segments are 'visually distinguished.'" Pet. 6 (citing Ex. 1209, 12–13; Ex. 1211 ¶ 61). Patent Owner does not disagree, but contends "the references not considered

during prosecution—Son, Jung and Horowitz—are entirely cumulative of the art considered during prosecution, which is implicitly admitted by Petitioner here." *See* Prelim. Resp. 6. According to Patent Owner, "the primary reference, Son, is used in the same exact manner that the Examiner used the Kaminski reference during prosecution." *Id.* at 8. Patent Owner also asserts "Jung is cumulative of Logan, and Horowitz is cumulative of Safadi, as those references are applied against the claims in the same exact manner." *Id.*

The record does not support Patent Owner's allegations. The record does not show material similarities in the prior art and Dr. Rhyne's declaration, and the record does not show that the Examiner considered arguments materially similar to those asserted by Petitioner here. For example, at pages cited by Petitioner, the Examiner describes what the references "disclose":

> [t]he closest prior art (Kaminski US 2003/0121055) teaches displaying a transport control interface. None of these references disclose "transport control interface that indicates a time length of the video program, wherein the transport control interface indicates a first stored time segment of the video program which is recorded in response to a specified user command, and a second stored time segment of the video program which is automatically recorded into buffer memory, wherein the first stored time specified and the second stored time segment are visually distinguished."

Ex. 1209, 12–13 (reasons provided by the Examiner in allowing Application No. 14/725,875 leading to the '956 patent).

In contrast, Petitioner here asserts that the combination of references teaches the limitation relied upon by the Examiner as allowable subject matter. In summary, Petitioner relies on Son as teaching a transport control

interface with a visual distinction between clipped programs and other programs, with Jung and/or Logan suggesting automatic buffering as a type of other programs suggested by the combination (as discussed further below in Section II.E). *See, e.g.*, Pet. 49; Prelim. Resp. 47 (characterizing the Petition as follows: "Additionally, in place of Son, Petitioner argues that Jung and Logan teach the automatic buffering of programs, including use of a central processing system." (citing Pet. 49)).

Nevertheless, similar to its allegations in connection with the prosecution history of the '956 patent, Patent Owner contends "the Examiner already relied on Kaminski in a similar manner" in prosecuting U.S. Patent No. 9,055,325 B2 (the "'325 patent"), Application No. 12/616,309. *See* Prelim. Resp. 47 (citing Ex. 1212, 54). Again, however, the record indicates the Examiner determined that Kaminski and other prior art does not *disclose* the limitation recited in application claims 71 and 72, namely "wherein the at least one time recorded segment is visually distinguished from the different recorded time segment based on whether the at least one time segment was recorded in response to a specific user command or automatically recorded into buffer memory." *See* Ex. 1212, 49 (allowable subject matter including dependent application claims 71 and 72), 77 (application claims 71 and 72), 31–38 (Amendment After Final Action), 12–13 (reasons for allowance).

The Examiner's reasons for allowance of the application leading to the '325 patent follow:

> [W]hile the prior art of record generally discloses various systems and methods for displaying a transport control interface to a user, the prior art of record, considered individually or as a whole, *does not explicitly or implicitly disclose each and every*

> *limitation of the claimed invention*. Though the prior art relied upon in the previous Office Action discloses a status bar that can indicate different programs or segments, *the prior art of record does not implicitly or explicitly disclose* the amended limitations that at least one recorded segment is visually distinguished from another recorded segment based on whether the recorded segment was recorded automatically or in response to a specific user command.

Ex. 1212, 12 (emphases added).

Here, in addition to asserting obviousness, Petitioner relies on Jung to teach what the Examiners asserted the prior art does not disclose: "Jung's PVR provides an interface (blue) and progress bar (yellow) that displays program-specific metadata (purple, yellow) indicating a 'time length' of one or more programs under BRC, and visually distinguishes automatically buffered program segments (green) from other segments indicating user-initiated program recordings (red)." Pet. 36 (citing Ex. 1205, 4–5; Ex. 1211 ¶¶ 140–141, 144). The record does not indicate that the Examiner considered Jung or considered a materially similar teaching in the light Petitioner advances here.

Accordingly, the circumstances do not warrant denying the instant Petition, and we decline to exercise our discretion to deny institution under 35 U.S.C. § 314(a) or 35 U.S.C. § 325(d).

B. Principles of Law

"A patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." 35 U.S.C. § 103(a). The question of obviousness involves

underlying factual determinations, including (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations. *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966). In addition, to evaluate a combination of teachings, we "determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (citing *In re Kahn*, 441, F.3d 977, 988 (Fed. Cir. 2006)). The prior art of record reflects the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

C. Level of Ordinary Skill

Relying on the testimony of Dr. Rhyne, Petitioner contends a person of ordinary skill in the art "would have had a bachelor's degree in computer science, electrical engineering, computer engineering, or a similar discipline and at least two years of experience with embedded computer systems. . . . A PHOSITA could have equivalent experience in industry or research, such as designing, developing, evaluating, testing or implementing these technologies." Pet. 13–14 (citing Ex. 1211 ¶¶ 17–20). Patent Owner does not dispute Petitioner's proposed level of ordinary skill or propose an alternative. *See generally* Prelim. Resp. We adopt Petitioner's proposed level as consistent with the prior art of record and for the purposes of determining whether to institute an *inter partes* review.

D. Claim Construction

In this *inter partes* review of the unexpired '956 patent, with the Petition accorded a date of filing of November 12, 2018, the broadest reasonable construction in light of the specification of the '956 patent applies to the claim terms. *See* 37 C.F.R. § 42.100(b) (2018).[1] Here, no claim terms require an express construction at this stage of the proceedings. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (noting that "we need only construe terms 'that are in controversy, and only to the extent necessary to resolve the controversy'") (citing *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)), *cert. denied*, 138 S. Ct. 1695 (Apr. 30, 2018).

E. Claims 1, 2, 4–6, 11, 12, and 14–16

The table above summarizes Petitioner's obviousness contentions. *Supra* Section II.F; *see also* Pet. 8. Citing the declaration of Dr. Rhyne for support, Petitioner alleges that the combination of Son and Jung, with and without Logan, teaches or suggests the subject matter of claims 1, 2, 4–6, 11–12, and 14–16. Pet. 34–64. Petitioner provides reasons why a person of ordinary skill in the art would have combined the references. *Id*. In response, Patent Owner argues that Petitioner's obviousness analysis

---

[1] *See Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board*, 83 Fed. Reg. 51,340, 51,344 (Oct. 11, 2018) (amending 37 C.F.R. § 42.100(b) effective November 13, 2018, announcing "[t]he Office will continue to apply the BRI standard for construing unexpired patent claims . . . in AIA proceedings where a petition was filed before the [November 13, 2018] effective date of the rule.").

impermissibly mixes embodiments of Son and that the prior art does not teach certain claim limitations. *See* Prelim. Resp. 13–32. For the reasons discussed below, we determine on the present record that the information presented shows a reasonable likelihood that Petitioner would prevail in establishing that claims 1, 2, 4–6, 11–12, and 14–16 would have been obvious.

1. Overview of Son

Son generally describes "[a] system and a method for recording digital broadcasting programs" (Ex. 1202 [57]), which includes a clipping function for selectively storing portions of a program (*id.* ¶¶ 14, 36). "In the present invention, a partial recording/editing function for recording only a part of the real-time broadcasting data, recorded data or time-shifted data in the HDD [hard disc drive] is called [a] clipping function for convenience of explanation." *Id.* ¶¶ 4, 12. Son's "time shift function," instigated by a pause control command in one example, allows for the recording and replaying of a currently viewed broadcast program. *Id.* ¶ 6; *see also* Ex. 1211 ¶¶ 117–118 (describing and quoting Son). A description of the "time shift function" follows:

> For example, in case that the user has a phone call while he is watching a broadcasting program, when he pushes a button for time shift of a remote control (for example, pause button), broadcasting streams received after he pushes the button are stored in a HDD. When the user pushes a play button after he hangs up, he can watch scenes following the pause Scene, which are stored in the HDD.

Ex. 1202 ¶ 6.

Users initiate the "clipping" function by selecting a remote control key to start and end a clipping region. *Id.* ¶¶ 32, 44, 45, Fig. 3. Users may

identify multiple other clipping regions by repeating this process. *Id.* ¶ 55. To instigate clipping during a broadcast, Son describes "while normally watching the reproduced file, the user can designate the start point and completion point using the recording key whenever contents he wants to clip are displayed, thereby setting at least one clipping region." *Id.* ¶ 56. Users can also set a clipping region for a previously stored and reproduced program, using a file name system. *Id.* ¶ 51. "The set clipping region is indicated in a color different from the original color of the guide bar to allow the user to easily recognize the clipping region." *Id.* ¶ 57; *see id.* at Fig. 4 (annotated by Petitioner and reproduced below in Section III.E.4).

2. Overview of Jung

Jung discloses a PVR (personal video recorder) that allows simultaneous playback and recording for digital television. Ex. 1205, Abstract. "To achieve time-shifting playback that is PVRs' key feature, TV programs should always be stored in the HDD." *Id.* at 5. Jung teaches storing buffered areas "until HDD reaches its full capacity so that users can experience time-shifting playback within the buffered area as long as possible." *Id.* Buffered regions also may be permanently stored using a clipping function. *Id.* "The current status of the buffered and recorded area is displayed on screen using a progress bar" as depicted in Figure 7. *Id.*

Jung's Figure 7 appears below:

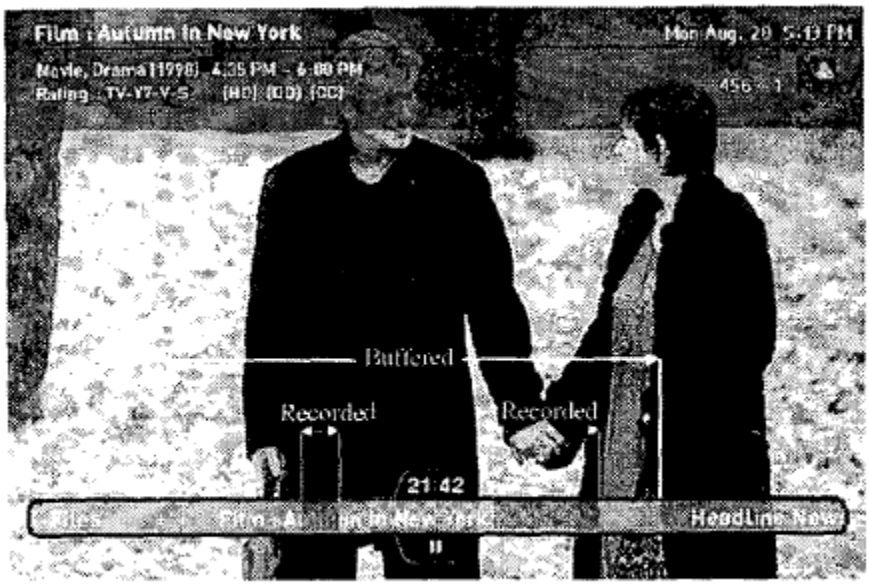

Fig. 7. PVR User Interface

Figure 7 above depicts time information (4:35 PM – 6 PM) for a currently viewed program and also depicts a progress bar that indicates distinctions between merely buffered and permanently "[r]ecorded" areas of program. *Id.* A moving pointer indicates "the current playing position." *Id.*

3. Overview of Logan

Logan generally discloses video and audio broadcast recording to allow a user "to pause, replay and fast-forward the broadcast programming." Ex. 1222, 1:7–13. The system stores one or more programs "in a buffer memory whenever the invention is in operation whereby, without attention from the user, the invention maintains a 'circular buffer' which stores programming received during a preceding time interval of predetermined duration." *Id.* at 1:47–53.

4. Claims 1 and 11

Petitioner relies on Son to teach most of the limitations of claim 1, "except (arguably) the limitations requiring that the transport control interface 'indicates a time length of the video program' and that 'the video program . . . is automatically recorded into buffer memory.'" Pet. 34.

With respect to the preamble of claim 1, "[a] method for providing information about a video program, the method comprising," Petitioner relies on Son's OSD unit 102 as displaying a guide bar "linked with a video signal being reproduced or a real-time broadcasting video signal to display the state of the signal." Pet. 37 (quoting Ex. 1202 ¶ 32). Petitioner also points to Figure 4 as showing a guide bar that provides information after the system extracts program guide information from a broadcasting signal. *Id.* (citing 1202 ¶¶ 32, 38, Figs. 3–4; Ex. 1211 ¶¶ 119–120, 210).

Claim 1 also recites "generating for display, using control circuitry, the video program and a transport control interface that indicates a time length of the video program." Petitioner relies on Son's engine 103 under control of application 101, which includes video processor 202, as control circuitry for generating the display of the a video program, including a broadcasting signal, on a television. *See id.* at 38 (citing 1202 ¶¶ 37, 40, 43, Figs. 3–4; Ex. 1211 ¶¶ 121–122, 210). For the transport control interface, Petitioner relies on Son's on-screen interface that includes a guide bar as depicted in Figure 4 of Son. *Id.* at 39–40 (citing Ex. 1202 ¶¶ 32–33, 38, 42, 43, Fig. 4; Ex. 1211 ¶¶ 126–127, 210).

A reproduction of Petitioner's annotation of Son's Figure 4 follows (Pet. 40):

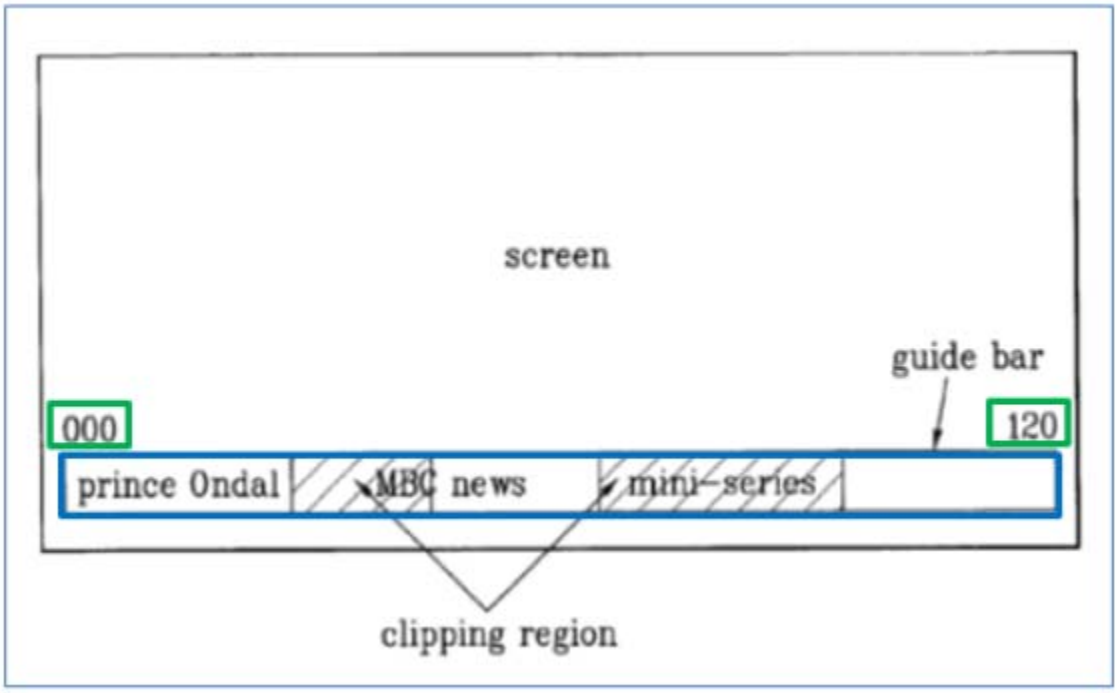

Figure 4, as annotated by Petitioner, shows relative lengths in time of clipping regions for different programs (for example, MBC news and a mini-series) relative to the overall length of the guide bar. *Id.* (citing Ex. 1202 ¶¶ 42–43; Ex. 1211 ¶¶ 126–127). Petitioner contends Son's guide bar visually and numerically indicates a length of the video program to a person of ordinary skill in the art. *See id.* (citing Ex. 1211 ¶¶ 126–127).

To the extent Son does not teach indicating the time length of the video program, Petitioner turns to Jung, which indicates the time span of a buffered program in Figure 7 (e.g., 4:35PM–6:00PM), and notes that Jung generally discloses a PVR system that buffers programs automatically and provides PVR functions for navigating programs. *See id.* at 40–41 (citing Ex. 1205, 2, 4, 5, Fig. 7; Ex. 1211 ¶¶ 144, 146). According to Petitioner, it

would have been obvious to employ Jung's time length indication with Son's guide bar to "improve Son's system and advantageously expand the program specific information displayed to users when making viewing/recording decisions, even while navigating stored programs." *Id.* at 42 (citing Ex. 1211 ¶¶ 165, 171–172, 187, 205, 210). Petitioner adds "[t]his enhanced functionality would be desirable to viewers." *Id.* (citing Ex. 1211 ¶¶ 165, 171–172, 187, 205, 210).

Claim 1 also recites

> a first stored time segment of the video program which is recorded in response to a specific user command, and
>
> a second stored time segment of the video program which is automatically recorded into buffer memory,
>
> wherein the first stored time segment and the second stored time segment are visually distinguished.

Ex. 1201, 39:37–43.

Addressing the first stored time segment, Petitioner notes "Son's system provides a clipping function that allows the user to selectively record buffered program(s) in a reproduction file by defining (on the guide bar) a clipping region using remote control 100." Pet. 44 (citing Ex. 1202 ¶¶ 32, 42–46, 54–60; Ex. 1211 ¶¶ 122–123, 210[1D]). Petitioner notes Son's guide bar visually indicates viewer selected clipping regions as distinct from other regions "to allow the user to easily recognize the clipping region." *Id*. at 35 (quoting Ex. 1202 ¶ 57 ("The set clipping region is indicated in a color different from the original color of the guide bar to allow the user to easily recognize the clipping region.")), 44 (similar contentions). Petitioner also contends Jung teaches a similar "time-shifter" for buffering TV programs to

storage for later playback. *Id*. at 46 (citing Ex. 1205, 2–5; Ex. 1211 ¶¶ 140–141).

Addressing the second time segment, Petitioner concedes Son teaches a user-initiated time-shift function for live broadcasts, but not automatic buffering. *Id.* at 45–46. Petitioner relies on the combination of Son and Jung, or Son, Jung, and Logan, as teaching the automatic buffering feature and time-distinction features. For example, Petitioner contends "Jung's PVR provides an interface (blue) and progress bar (yellow) that displays program-specific metadata (purple, yellow) indicating a 'time length' of one or more programs under BRC, and visually distinguishes automatically buffered program segments (green) from other segments indicating user-initiated program recordings (red)." *Id.* at 36 (citing Ex. 1205, 4–5; Ex. 1211 ¶¶ 140–141, 144). Petitioner adds that even if a buffer memory does not encompass storage such as HDDs, "it would have been obvious to use—in Son-Jung—a RAM buffer memory that automatically stores programs 'whenever the invention is in operation . . . without attention from the user,' as taught by Logan." *Id.* at 46 (quoting Ex. 1222, 1:52; citing *id.* at 1:45–52, 3:11–15, 5:22–27; Ex. 1211 ¶¶ 149, 210). Petitioner explains that using the modified system of automatic buffering as suggested by Jung and Logan would have provided benefits such as an expanded control of the buffered programming without requiring a manual input by the user, thereby preventing user error and missed program recordings by automatically storing programs to buffer memory. *Id.* at 47 (citing Ex. 1205, 5; Ex. 1222, 1:35–52, 4:3–6; Ex. 1211 ¶¶ 163, 169–172, 203). Petitioner provides other related reasons to combine the teachings, for example, noting "Son and Jung/Logan share similar components and features," including "use [of] on-

screen interfaces and input controls for controlling and accessing programs." *Id.* at 49 (citing Ex. 1202 ¶¶ 38–43, Fig. 4; Ex. 1205, 4–5; Ex. 1222, 1:64–2:2, 4:3–13, 5:7–11, 5:27–6:15; Ex. 1211 ¶¶ 160, 172, 180–181). Petitioner also quotes Logan as teaching its "invention is 'useful, and indeed simplified when used with high definition television signals,'" thereby suggesting Logan's use of automatic buffering techniques in Son's system. *Id.* at 50 (quoting Ex. 1222, 2:52–56).

Claim 1 also recites "wherein the first stored time segment and the second stored time segment are visually distinguished." As noted above, Petitioner relies on Son's system to teach storing a first time segment via its clipping function. *See id.* at 44. As also noted above, Petitioner relies on a combination of Son and Jung, or Son, Jung, and Logan, to teach "a second stored time segment of the video program which is automatically recorded into buffer memory." *Id.* at 45. And Petitioner relies on Jung's and Logan's suggestions for automatic buffering, where Jung discloses buffering for live television and Logan similarly describes storing without requiring the "attention" of the user. *See id.* at 46 (citing Ex. 1222, 1:45–52, 3:11–15, 5:22–27; Ex. 1211 ¶¶ 149, 210); Ex. 1205, 6).

Addressing the "visually distinguished" limitation, Petitioner explains "while Son teaches that the guide bar distinguishes a buffered program segment (green) and a recorded program segment (red) (Ex. 1211 ¶¶ 128–132, 210[1F]), it does not disclose that the buffered program segment was automatically buffered." *Id.* at 52 (annotating Figure 4 of Son). As Son's system already visually distinguishes buffer storage regions and clipping storage regions, by implementing the automatic feature of the buffer storage regions suggested by Jung and Logan for the reasons outlined above,

Petitioner contends "the resulting combined system would visually distinguish—via the guide bar—the clipping region (the 'first stored time segment') and the automatically buffered program segment (the 'second stored time segment')." *Id.* at 53 (citing Ex. 1202 ¶¶ 38, 43, 53, 57; Ex. 1211 ¶¶ 126, 129–133, 210).

Petitioner contends displaying automatically buffered regions would have improved Son's system by facilitating recording of the automatically buffered segments. *See id.* at 48–49. In other words, similar to the reasons for providing automatic buffering, providing a visual distinction showing automatic buffering regions as distinct from clipped regions provides a flexible and simple process for allowing a user to record entire programs or segments while minimizing user error and missed programs. *See id*. at 48–49, 52–53. As noted above, Petitioner also generally contends that providing the time information as Jung suggests "would have improved Son's system, by providing users with additional program-specific information for making viewing/recording decisions (e.g., clipping)." *Id.* at 43 (citing Ex. 1211 ¶¶ 165, 171–172, 205). This rationale also applies to providing a visual distinction between automatic buffering and user-initiated clipping—i.e., the visual distinction provides additional program information. *See id.* at 41–42 ("Son's system—modified based on Jung's teachings—would improve Son's system and advantageously expand the program specific information displayed to users when making viewing/recording decisions, even while navigating stored programs." (citing Ex. 1211 ¶¶ 165, 171–172, 187, 205, 210)); *id.* at 43 ("Jung's display techniques would have improved Son's system, by providing users with additional program-specific information for making viewing/recording

decisions (e.g., clipping)"). Petitioner provides a similar showing regarding system claim 11, primarily relying on the above-discussed showing for method claim 1. *See id.* at 53–55.

Addressing claims 1 and 11 together, Patent Owner asserts "Petitioner's grounds are flawed." Prelim. Resp. 14. According to Patent Owner, "the Petition mixes two embodiments of Son without providing any explanation as to why such mixing is appropriate or would have been obvious," and in any case, "Son still does not teach visually distinguishing between the two claimed stored time segments." *Id.* at 15. Patent Owner similarly contends "Son does not describe a scenario where its guide bar distinguishes between segments of video across its different modes of operation." *Id.* at 19. In particular, Patent Owner contends "Son's guide bar is linked to and displays information for one mode of operation—either a video signal being reproduced or a real-time broadcasting signal—not both modes of operation." *Id.* at 17. According to Patent Owner, "[w]hen Son's clipping function uses a recorded video signal, Son's system is operating on and the guide bar is linked to a reproduction file." *Id.* (citing Ex. 1202 ¶ 38).

Patent Owner does not undermine Petitioner's sufficient showing for institution purposes. Petitioner sufficiently shows the use of Son's clipping function with either real-time broadcasting, time shifted files, or reproduction files, under control of the guide bar. *See, e.g.*, Pet. 35 (generally contending "Son's guide bar visually distinguishes the set clipping regions(s) (purple) from other regions of the guide bar (brown)"), 44–46 (similar). Son supports Petitioner on this preliminary record. For example, Son discloses "the present invention performs the clipping function for a real-time broadcasting video signal such that a user selects a partial

section of the video signal and only the video signal of the selected section is stored in the HDD." Ex. 1202 ¶ 36. Son also teaches "[t]he guide bar is linked with a video signal being reproduced or a real-time broadcasting video signal to display the state of the signal. The state of the signal can be indicated using colors on the guide bar[]." *Id.* ¶ 38. And Son generally teaches distinguishing, by color, clipped regions from the remaining part of "a recorded video signal or a time-shifted video signal, which are being reproduced, or a real-time broadcasting video signal." *Id.* ¶ 14. In each of these scenarios, "[t]he guide bar can be displayed in a distinct color to allow the user to easily recognize the set clipping region." *Id.* ¶ 14.[2] So although Figure 4 represents an example of a guide bar for a reproduction file as Patent Owner argues (*see id.* ¶¶ 41–42), Son employs Figure 4 as a mere example to explain how the clipping function generally works, and Son generally teaches using the same or similar guide bar to "allow[] a user to recognize the state of an image currently being displayed on the TV screen [e.g., live broadcast] and to select an arbitrary position of the guide bar" to perform clipping. *See id.* ¶ 40.

Under the combination described by Petitioner, while viewing an automatically buffered program (e.g., a basketball game) as suggested by Jung and Logan, the viewer would have been able to clip desired portions after and before commercials as Son suggests and thereby store only the clipped game as a named file (i.e., without the commercials). *See* Ex. 1202 ¶¶ 51–52, 60, 61, 64, 65; Ex. 1205, 6 (automatic buffering and permanent

[2] Reproducing a time-shifted video for playback, and creating a time-shifted video signal of a live broadcast, constitute distinct actions. *See id.*

storage for clipped regions); Ex. 1222, 1:46–60 (automatic buffering "without attention from the user"). Son teaches the clipping function saves memory space and allows ready viewing of stored programs. Ex. 1202 ¶ 64. Son also states that "a program broadcasting in real time can be recorded through the clipping function," and "[t]he clipping region is displayed on the guide bar and, when the clipping completion key is inputted, only the broadcasting signals of the clipping region are stored in the HDD 106. Simultaneously, the file system 104 is updated." *Id.* ¶ 61. According to Petitioner, the automatic buffering suggested by the combination prevents a user from a "mistake" such as missing live broadcast regions desired to be clipped. *See* Pet. 47–48.

Patent Owner's arguments also do not address Petitioner's showing, as outlined above, which relies on the combination of Son and Jung, or Son, Jung, and Logan, to suggest the visual distinction between the two claimed time segments recited in claims 1 and 11—i.e., the automatically buffered time segments as Jung and/or Logan suggest in the system of Son (which uses a pause button instead of automatic buffering) versus the time segments designated by a user-initiated clipping function for creating more permanent storage. *See* Pet. 45–47 (discussing, *inter alia*, Son's pause button as initiating a time-shift function versus automatic buffering); Ex. 1205, 5 (indicated use of a clipping function to store items "permanently" as compared to automatically buffering regions "until HDD reaches its full capacity").

Patent Owner also argues that Son's clipping does not result in recording because clipping "merely manipulates a video program *after* it has already been recorded." Prelim. Resp. 21. But this does not undermine

Petitioner's showing that relies on the clipping function as modifying the stored signal so that the system "stores only the video signal corresponding to the selected section in the HDD." Ex. 1202 ¶ 38.[3]

Patent Owner also contends Son does not teach indicating a time length of the video program. Prelim. Resp. 21–28. First, Patent Owner asserts that Son only shows an aggregate amount of time, 120 minutes, for "at least three different video programs . . . not a time length of any individual video program." *Id.* at 22–23. Second, Patent Owner concedes as "true" that Son discloses the "length of each program segment [is] proportional to the overall length of the guide bar." *Id.* at 25 (quoting Pet. 40 (addition by Patent Owner)). But Patent Owner contends Son does not reveal the "information about the proportion." *Id.* at 25. Even if the challenged claims require indicating the time length of individual programs, Patent Owner's second argument undermines the first argument, because Patent Owner concedes Son's bar visually indicates proportional time lengths of individual programs. *See id.*; Ex. 1202, Fig. 4.

Third, Patent Owner challenges Petitioner's reliance on Son's system as implying the watching of a single program over a full 120 minute time span, because this does not explain how "Figure 4 would numerically indicate the time length of each of the displayed programs." Prelim. Resp. 25 (citing Pet. 40). Patent Owner's argument does not address Petitioner's showing that relies on Son's system as contemplating all manner

[3] Son also appears to teach storing a live broadcast portion at least temporarily in the HDD after using a pause button. *See id.* ¶¶ 6, 14.

of programs, including a single program as spanning the full time indicated in Figure 4 of Son.

Finally with respect to the time limitation, Patent Owner challenges Petitioner's reliance on the combination of Son and Jung. Patent Owner contends "Petitioner does not address why the header information displayed in Jung is relevant to Son's guide bar or the claimed transport control interface—different interfaces serving different purposes than Jung's time-shifter progress bar." *Id.* at 26. This argument does not address the combination, where Petitioner proposes adding more specific time information to the control bar of Son, which includes some time information for individual programs as explained above (e.g., as a proportion of 120 minutes). *See* Ex. 1202, Fig. 4.

According further to Patent Owner, Petitioner "does not provide any explanation as to what additional benefit to the user is gained by adding start and end times for each program, as alleged," because "Son already provides for the benefits and solves any problems alleged by Petitioner." Prelim. Resp. 26. This line of argument appears to undermine Patent Owner's arguments that Son does not disclose or suggest providing time information. In any event, Petitioner sufficiently shows, for purposes of institution, that adding more specific time information would have benefited a user in employing Son's control bar to navigate recording options at least by providing specific timing information to supplement visual indications based on length. *See* Pet. 40–44. Furthermore, Figure 36 of the '956 patent reveals that time may be indicated as a proportion, because it provides "[m]arker 3602" to indicate a time of 8:00 pm without the screen specifying

the time 8:00 pm. *See* Ex. 1202, 33:45–54 (stating "any suitable indicators" may be employed), Fig. 36.

Regarding motivation to combine Son, Jung, and Logan, Patent Owner contends Petitioner's "alleged benefits do not make sense when considered in context of the actual teachings of Son, Jung, and Logan." Prelim. Resp. 29. First, Patent Owner contends "the resultant modified system still would not link the guide bar to both a *reproduction file* and a *real-time broadcast signal* at the same time." *Id.* (emphasis added). However, as discussed above, Petitioner proposes linking *clipping regions*, including those for real-time broadcasting, and *automatically buffered regions* of real-time broadcasting, on a guide bar. Hence, contrary to Patent Owner's related arguments about the "first scenario," on this preliminary record and for purposes of institution, Petitioner does not appear to impermissibly mix "disparate embodiments" in Son. *See id.*

Under a "second scenario," Patent Owner contends "combining Jung's alleged automatic buffering with Son's time-shifting operations on a real-time broadcast signal would yield the following result: automatic time-shifting functions such as pause, rewind or forward independent of a user's desire." *Id.* at 30–31. According to Patent Owner, "automating the pause, rewind and forward functionality of Son, as alleged by Petitioner, does not make technical sense." *Id.* at 31. However, as discussed above, Petitioner proposes automating, *inter alia*, the buffering of real time broadcasting to simplify the recording process and also to ensure a user does not miss a program. The proposed modification does not necessarily include deleting or automating all facets of the options of pause, rewind, and forward functionality, for example, with respect to stored programs. Son discloses

"for example, [a] pause button," as implementing a time-shift function, so that the "pause" function may initiate storage, but at this juncture, the preliminary record does not indicate that an artisan of ordinary skill implementing and modifying Son's teachings would implement them by deleting the "pause" function just because Son's modified system also may include an automatic feature. *See* Ex. 1202 ¶ 6. Also, Son's system "performs the clipping function for a real-time broadcasting video signal such that a user selects a partial section of the video signal and only the video signal of the selected section is stored in the HDD." *Id.* ¶ 36. So the combination as sufficiently proposed by Petitioner on this preliminary record allows for an initial automatic buffering of a program as Jung and/or Logan suggest, and also allows for using Son's clipping function to select only portions of it so that a user will record desired portions selected via a cursor (*see id.* ¶ 46) on the guide bar. *See* Pet. 47–49. Petitioner also sufficiently shows for institution purposes that the combined feature ensures a user will not miss portions of the broadcast portion desired to be recorded. *See id.*

On the present record, and for purposes of this Institution Decision, Petitioner shows sufficiently that the combination of Son and Jung, or Son, Jung, and Logan, teaches or suggests the subject matter of claims 1 and 11. Petitioner also provides sufficient reasoning with some rational underpinning as to why a person of ordinary skill in the art would have combined the teachings of the references in the manner asserted. Accordingly, we determine that the information presented shows a reasonable likelihood that Petitioner would prevail in establishing that claims 1 and 11 would have been obvious.

5. Dependent Claims 2, 4–6, 12, and 14–16

Petitioner contends that claims 2 and 4–7, which depend directly or indirectly from claim 1, and claims 12 and 14–16, which depend directly or indirectly from claim 11, are unpatentable under 35 U.S.C. § 103(a) as obvious over Son and Jung, or Son, Jung, and Logan. Pet. 55–60. Petitioner relies on Son as teaching the additional limitations of these dependent claims. *Id.* For instance, claims 2 and 12 each recite "wherein the video program is a broadcast program." Petitioner relies on Son's teaching of "an engine 103 for processing a broadcasting signal received through a channel (the air, a cable or a satellite)" and also Son's teaching of a guide bar "linked with a video signal being reproduced or a real-time broadcasting video signal to display the state of the signal." *Id.* at 55–60 (citing Ex. 1202 ¶¶ 32, 35, 38, 36, 39; Ex. 1211 ¶¶ 214–218).

Claims 4 and 14 each recite "wherein generating for display the transport control interface comprises generating for display a transport control bar." For these claims, Petitioner contends "Son's OSD unit 102—including OSD processor 102c—generates for display an on-screen interface ('transport control interface') comprising 'characters, graphic[s] and [a] guide bar' for displaying information and controlling the operation of Son's system." *Id.* at 56–57 (quoting Ex. 1202 ¶ 33; citing Ex. 1202 ¶¶ 32, 47, 51, 60, 62, Figs. 4–5).

Claims 5 and 15 require "control circuitry" used to "receiv[e] . . . instructions to record a second video program," and further require "recording the second video program." To address these claims, Petitioner points to Son's application 101 and engine 103 as control circuitry with program instructions for controlling a guide bar to display the status of

buffered programs and for recording same, and providing commands from key input 100 to define a clipping region for recording a number of programs, including the mini-series represented at Figure 4. *See id.* at 57–58 (citing Ex. 1202 ¶¶ 7, 13–15, 33, 36–38, 42–46, 49, 51, 54–56, Fig. 4; Ex. 1211 ¶¶ 226, 208, 224–229).

Claims 6 and 16 require "the transport control bar" to "cover[] a time period longer than the video program." Petitioner relies on Son's teaching of the guide bar represented in Figure 4 as spanning 120 minutes and comprise several shows, including "prince Ondal," "MBC news" and "mini-series," each of which span times less than the full 120 minutes of the guide bar. *See id.* at 58–59 (citing Ex. 1202 ¶¶ 38, 42–43, 51–52, Fig. 4). Petitioner also points out "Jung similarly provides a progress bar that covers a time period longer than one program." *Id*. (citing Ex. 1211 ¶¶ 233–234).

Patent Owner does not respond specifically to Petitioner's contentions regarding claims 2, 4–6, 12, and 14–16. *See* Prelim. Resp. 13–34. Having reviewed Petitioner's arguments and evidence, we determine on the present record that Petitioner sufficiently shows that the combination of Son and Jung or Son, Jung, and Logan teaches or suggests the subject matter of these dependent claims. Petitioner also provides sufficient reasoning with some rational underpinning for combining the references. Accordingly, the information presented shows a reasonable likelihood that Petitioner would prevail in establishing that claims 2, 4–6, 12, and 14–16 are unpatentable for obviousness.

F. Dependent Claims 3 and 13

Petitioner contends that claims 3 and 13, which respectively depend from claims 1 and 11, are unpatentable under 35 U.S.C. § 103(a) as obvious over Son and Jung, or Son, Jung, and Logan, further in view of Horowitz. Pet. 60–64.

Claim 3 depends from claim 1 and recites "receiving a change in running time of the video program" and "modifying the transport control interface to indicate a second time length of the video program based on the change in running time." Claim 13 depends from claim 11 and requires "control circuitry further configured to" perform the "receiving" and "modifying" steps recited in claim 3.

Petitioner contends Son's system modifies a transport control interface to indicate the status of a displayed program, but does not disclose "receiving a change in running time of the video program" and modifying the guide bar "based on the change in running time." *Id.* at 60 (citing Ex. 1202 ¶¶ 32, 35, 42, 43, 49, Fig. 4, Ex. 1211 ¶¶ 123, 125–126, 250–252) Petitioner contends Horowitz "shows that it was known to receive and display—via an on-screen program guide—updated start/end time information for video programs." *Id*. at 61 (citing Ex. 1207 ¶¶ 18–20, 23, 28–31, 35–36, Figs. 4–5). Son's system generally teaches a guide bar "that allows a user to recognize the state of an image currently being displayed on the TV screen." Ex. 1202 ¶ 40. Petitioner contends Horowitz explains the benefits of providing the display of accurate information including updated broadcast time and schedule changes, and that it in view of Horowitz's teachings, it would have been obvious to update the system of Son and Jung, or Son, Jung, and Logan, to provide accurate time information to ensure the

full recording of desired programs in a flexible manner while also providing for an efficient storage of desired programs. *See* Pet. 61–65 (citing Ex. 1202 ¶¶ 32, 35, 48–52, Fig. 4; Ex. 1205, 4–5; Ex. 1206 ¶¶ 19–20, 61–62; Ex. 1207 ¶¶ 1, 3–8, 20–23, 28–31, 33–38, 47–48, 55–65, 68, 72–73, Figs. 4–5; Ex. 1211 ¶¶ 249–276).

Patent Owner does not respond specifically to Petitioner's contentions regarding claims 3 and 13. *See* Prelim. Resp. 13–34. Having reviewed Petitioner's arguments and evidence, we determine that, on the present record, Petitioner sufficiently shows that the combination of Son and Jung, or Son, Jung, and Logan, further in view of Horowitz, teaches or suggests the subject matter of these dependent claims. Petitioner also provides sufficient reasoning with some rational underpinning for combining the references. Accordingly, the information presented shows a reasonable likelihood that Petitioner would prevail in establishing that claims 3 and 13 are unpatentable for obviousness.

G. Dependent Claims 7–10 and 17–20

Petitioner contends that claims 7–10 and 17–20, which respectively depend directly or indirectly from claims 1 and 11, are unpatentable under 35 U.S.C. § 103(a) as obvious over Son and Jung, or Son, Jung, and Logan, further in view of Tomita. Pet. 65–85.

Claim 7 depends from claim 4, and recites "generating simultaneously for display, using the control circuitry, a second video program, wherein the transport control interface integrates information from the first and second video programs." Claim 17 depends from claim 14, and recites "control circuitry further configured to" perform the "generating" step recited in

claim 7, and recites "wherein the transport control interface integrates information from the first and second video programs." Petitioner contends Son and Jung each teach a transport control interface that integrates information for two video programs. *Id.* at 66–67 (citing Ex. 1202 ¶¶ 32–33, 42–43, Fig. 4; Ex. 1211 ¶¶ 288–299). Petitioner also contends Tomita teaches simultaneously displaying two programs via a picture-in-picture display and teaches control circuitry and user editing features to perform that function. *Id*. at 67–68 (citing Ex. 1208 ¶¶ 69–71, 73, 75–76, 82, Fig. 7; Ex. 1211 ¶¶ 285–286, 288). Petitioner also contends that Tomita's Figure 7 represents an integrated status bar with two pointers showing information related to playback and recorded videos. *Id*. at 73 (citing Ex. 1208 ¶¶ 56, 73–74, 76, Fig. 7). Petitioner explains "[t]he Son-Jung and Son–Jung-Logan systems, modified in view of Tomita to simultaneously generate for display video from different portions of the buffer, would similarly show an entire buffer with multiple programs," and the modification would have provided an advantage of allowing a user to navigate a cursor to desired portions of a buffer for control. *See id.* at 72–73. As another reason to combine the teachings, Petitioner contends "the combined system would enable a user to view different programs at the same time, such as news, sports, or other programs that a user wishes to monitor while also viewing previously stored programming to identify desired clipping regions." *Id.* at 69–70 (citing Ex. 1202, Fig. 4; Ex. 1205, 5, Fig. 7; Ex. 1208 ¶ 77; Ex. 1211 ¶ 292).

For claims 8–10, and 18–20, which generally require features related to a second transport control interface and display of a second video program, Petitioner relies on the teachings described above in connection with claims 7 and 17 and also on other or similar combined teachings in

Tomita and Son. As an example, Petitioner contends "Tomita teaches that features of Figures 5 and 7 may be combined so that two videos are simultaneously displayed, via picture-in-picture format, with corresponding status bars." *Id.* at 83 (citing Ex. 1208 ¶ 76; Ex. 1211 ¶ 319). Petitioner generally contends, *inter alia*, that mere duplication of parts (i.e., for a control interface) would have been obvious and that providing separate status bars for videos would provide flexibility and independent control of recording features for different programs and buffered information as desired by a user for watching and storing. *See id.* at 78–85.

Patent Owner does not respond specifically to Petitioner's contentions regarding claims 7–10 and 17–20. *See* Prelim. Resp. 13–34. Having reviewed Petitioner's arguments and evidence, we determine on the present record that Petitioner sufficiently shows that the combination of Son and Jung, or Son, Jung, and Logan, further in view of Tomita, teaches or suggests the subject matter of these dependent claims. Petitioner also provides sufficient reasoning with some rational underpinning for combining the references. Accordingly, the information presented shows a reasonable likelihood that Petitioner would prevail in establishing that claims 7–10 and 17–20 are unpatentable for obviousness.

H. Dependent Claims 5, 7–10, 15, and 17–20

Under an alternative analysis with respect to claims 7–10 and 17–20, Petitioner relies on Safadi (Ex. 1206), "to modify the Son-Jung-Tomita and Son-Jung-Logan-Tomita systems to simultaneously display and record programs from different sources using additional tuners, as taught by Safadi." Pet. 86 (citing Ex. 1206 ¶¶ 6, 12, 39–45). Petitioner also relies on

Safadi in combination with Son and Jung or Son, Jung, and Logan with respect to claims 5 and 15. *Id.* In other words, to the extent claims 5, 7–10, 15, and 17–20 require additional tuners, according to Petitioner, "Safadi proposed using two tuners to simultaneously display and record programs from different sources." *Id.* (citing Ex. 1206 ¶¶ 6, 12, 39–45; Ex. 1211 ¶¶ 327, 330, 334).

Patent Owner does not respond specifically to Petitioner's contentions regarding claims 5, 7–10, 15, and 17–20. *See* Prelim. Resp. 13–34. Having reviewed Petitioner's arguments and evidence, we determine on the present record that Petitioner sufficiently shows that the asserted combinations with Safadi teach or suggest the subject matter of these dependent claims. Petitioner also provides sufficient reasoning with some rational underpinning for combining the references. Accordingly, the information presented shows a reasonable likelihood that Petitioner would prevail in establishing that claims 5, 7–10, 15, and 17–20 are unpatentable for obviousness.

IV. CONCLUSION

Upon consideration of the parties' contentions and the evidence of record, we determine that Petitioner has shown a reasonable likelihood of prevailing in establishing the unpatentability of claims 1–20 of the '956 patent on all grounds presented in the Petition. At this preliminary stage, no final determination has yet been made with regard to the patentability of any challenged claim or any underlying factual or legal issues. The final determination will be based on the record as developed during the *inter partes* review.

V. ORDER

In consideration of the foregoing, it is hereby

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–20 of the '956 patent is instituted with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), *inter partes* review of the '956 patent shall commence on the entry date of this Order, and notice is hereby given of the institution of a trial.

PETITIONER:

Frederic Meeker
Bradley Wright
Christopher L. McKee
H. Wayne Porter
John R. Hutchins
Blair A. Silver
Thomas K. Pratt
Azuka C. Dike
BANNER & WITCOFF, LTD.
fmeeker@bannerwitcoff.com
bwright@bannerwitcoff.com
cmckee@bannerwitcoff.com
wporter@bannerwitcoff.com
jhutchins@bannerwitcoff.com
bsilver@bannerwitcoff.com
tpratt@bannerwitcoff.com
adike@bannerwitcoff.com
ComcastIPRService@bannerwitcoff.com

PATENT OWNER:

Jason D. Eisenberg
Lestin L. Kenton
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C
jasone-PTAB@sternekessler.com
lkenton-PTAB@sternekessler.com