IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HERTL MEDIA, LLC,	§	
	§	
Plaintiff,	§	Case No:
	§	
vs.	§	PATENT CASE
	§	
BITMOVIN, INC.,	§	
	§	
Defendant.	§	
	§	

COMPLAINT

Plaintiff Hertl Media, LLC ("Plaintiff" or "Hertl") files this Complaint against Bitmovin, Inc. ("Defendant" or "Bitmovin") for infringement of United States Patent No. 9,324,365 (hereinafter "the '365 Patent").

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its office address at 5900 S Lake Forest Dr, Suite 300, McKinney, TX 75070.

4. On information and belief, Defendant is a Delaware corporation with a principal place of business at 301 Howard Street, Suite 1800, San Francisco, CA 94105. On information and belief, Defendant may be served through its registered agent at The Company Corporation, 251 Little Falls Drive, Wilmington, DE 19808.

5. This Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. §1400(b) because Defendant is deemed to reside in this District.

COUNT I

(INFRINGEMENT OF UNITED STATES PATENT NO. 9,324,365)

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq*.

10. Plaintiff is the owner by assignment of the '365 Patent with sole rights to enforce the '365 Patent and sue infringers.

11. A copy of the '365 Patent, titled "Multi-Language Buffering During Media Playback," is attached hereto as Exhibit A.

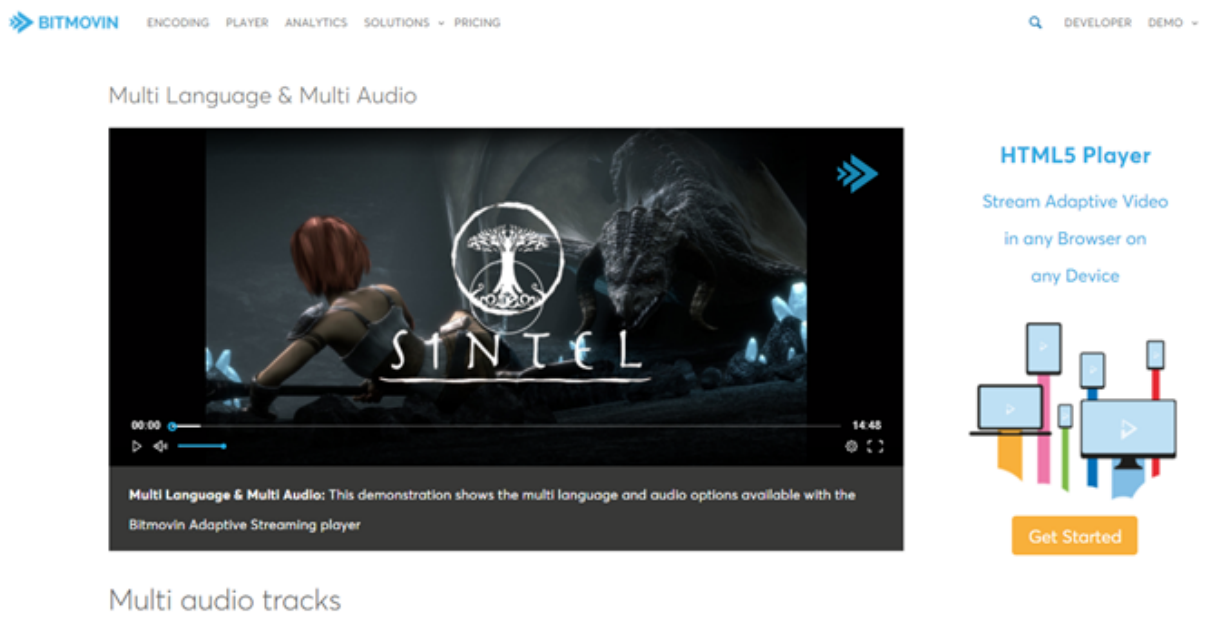
12. The '365 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. On information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claims 1, 2, 4, 6, 7, 8, 10, 11, 12, 13, and 15 of the '365 Patent by making, using, importing, selling, and/or offering for sale a data processor for

processing a data stream including audio and video data, which is covered by at least Claims 1, 2, 4, 6, 7, 8, 10, 11, 12, 13, and 15 of the '365 Patent. Defendant has infringed and continues to infringe the '365 Patent directly in violation of 35 U.S.C. § 271.

14. Defendant, sells, offers to sell, and/or uses a data processor for processing a data stream including audio and video data including, without limitation, the processor(s) used in connection with its provision of a platform that allows customers to transcode digital video and audio to streaming formats using cloud computing, and streaming media players on a user's computer, TV, smartphone, and/or other devices, and any similar products ("Product"), which infringes at least Claims 1, 2, 4, 6, 7, 8, 10, 11, 12, 13, and 15 of the '365 Patent.

15. The Product is a data processor for processing a data stream comprising audio and video data. For example, the Product provides a platform that allows customers to transcode digital video and audio to streaming formats using cloud computing, and streaming media players on a user's computer, laptop, smartphones, and/or other devices. Further, the Product provides an input buffer configured to buffer the data stream. For example, when users stream video content using the Product, it buffers the data stream using an input buffer. Certain aspects of this element are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



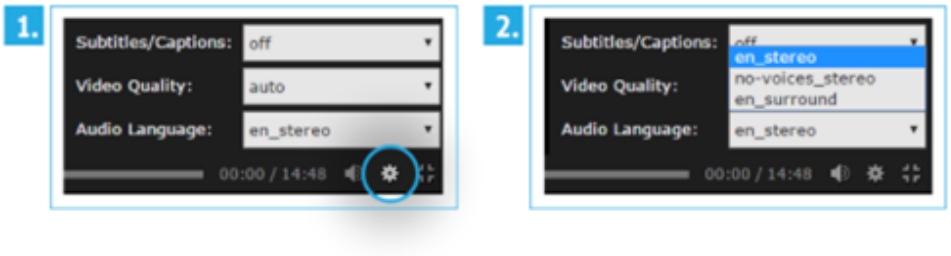
Source: https://bitmovin.com/multi-language-multi-audio/

Multi audio tracks

Bitmovin supports multiple audio/language tracks, without the need of duplication or repackaging the video, either for live or on-demand content. Due to the flexibility of DASH, content publishers can easily provide multiple language tracks for video assets, where our players support multi-bitrate audio tracks also in multi-language scenarios. bitdash further includes functionalities that allows viewers to instantaneously switch to an alternate audio track either before or during playback.

Bitmovin also supports subtitles and closed captions. Switching during playback of the video to different subtitles is possible. The subtitles are fully separated from the original video files.

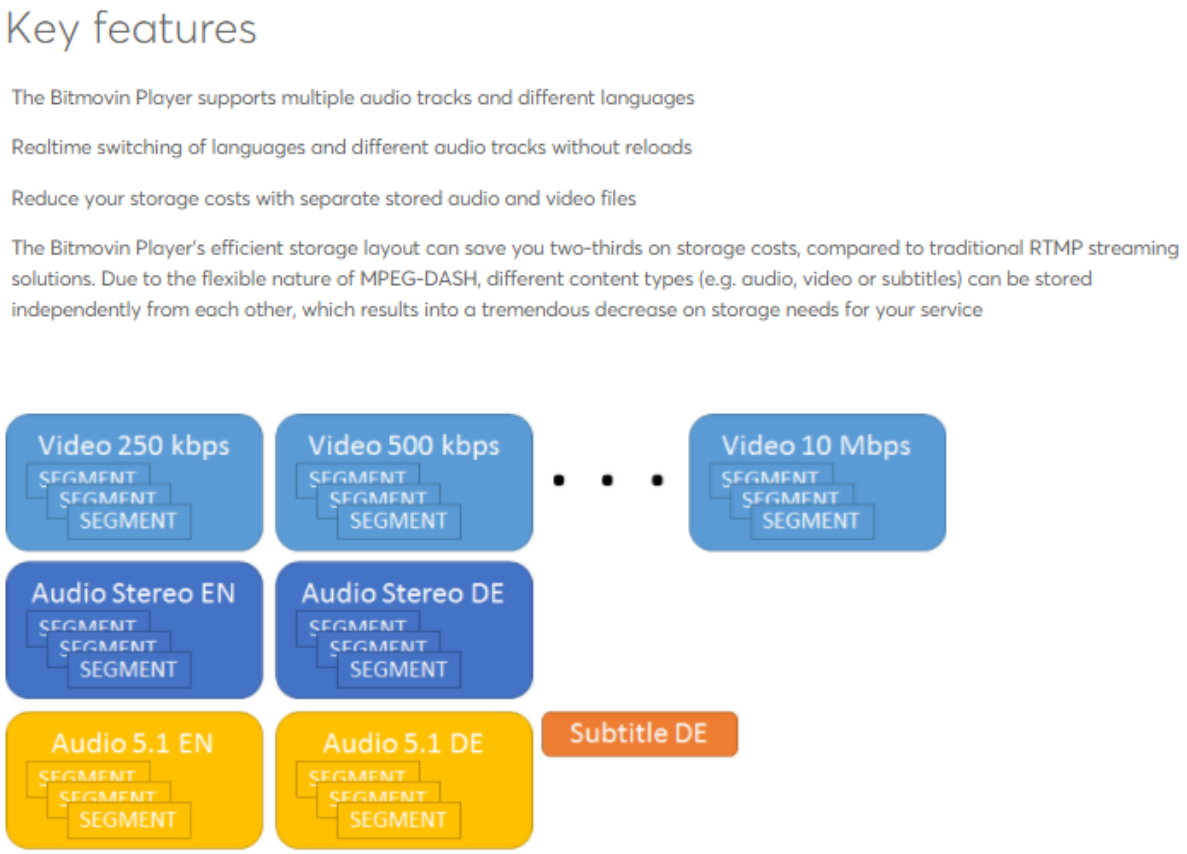
Using the multi language controls



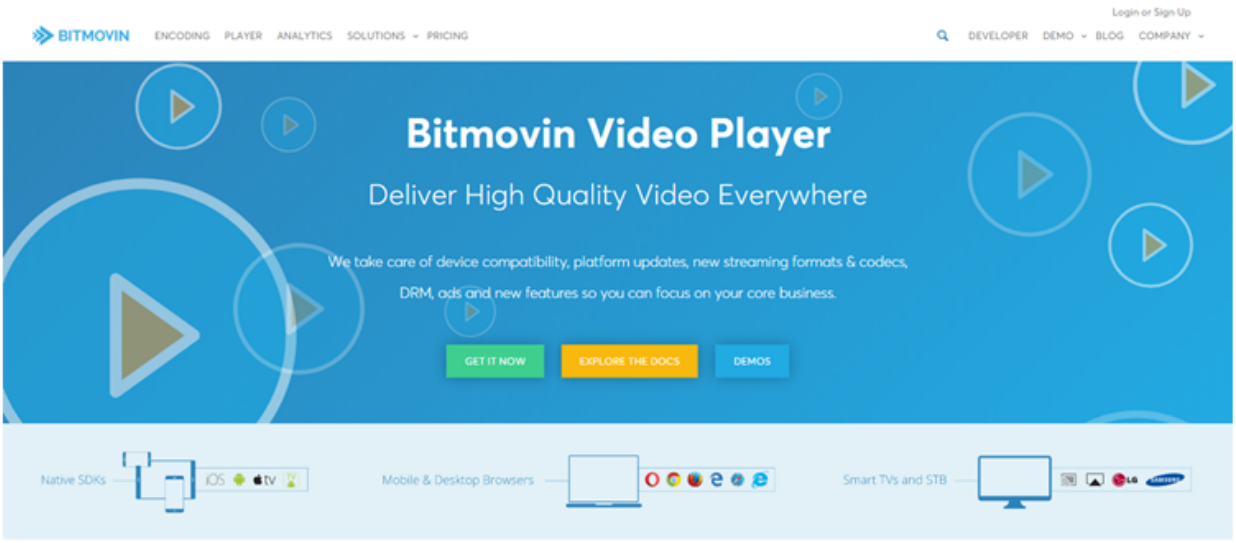
Step 1. Open the settings menu of of the HTML5 Player using the gear icon in the bottom right corner.

Step 2. Select your preffered audio language.

Source: https://bitmovin.com/multi-language-multi-audio/



Source: https://bitmovin.com/multi-language-multi-audio/



Source: https://bitmovin.com/video-player/

16. The Product provides a data stream analyzer programmed and configured to analyze the data stream to find information on a plurality of language-specific contents in

different languages. For example, the service includes "Multi-Language" support, wherein the Product allows users to switch between different audio languages. On information and belief, for videos that contain multiple language audio tracks, the Product analyzes the data stream to find information such as language name and packet data related to the plurality of language-specific audio tracks. Further, the Product also allows users to switch subtitles in one language to subtitles in a different language. On information and belief, for videos that contain multiple language subtitles, the Product analyzes the data stream to find information such as subtitles and the timestamps at which the language-specific subtitles are to be displayed. Certain aspects of this element are illustrated in the screen shots provided in connection with other allegations herein.

17. In addition the Product provides a queuing buffer configured to queue a plurality of parallel queues, each queue including only references to language-specific contents in the same distinct language, wherein the reference point to input buffer items in the input buffer. For example, when a user streams a video that contains multiple audio tracks, the Product uses a queuing buffer to queue each of the audio language tracks in a respective parallel queue. The language-specific queues are parallel since the Product allows a user to switch between languages even while a video is playing, in which case the video does not restart but simply continues in the new language. Further, when a user streams a video that contains subtitles in multiple languages, the Product uses a queuing buffer to queue subtitles corresponding to each of the languages in a respective parallel queue. The language-specific queues are parallel since the Product allows a user to switch between languages even while the video is playing – in which case the video does not restart but simply continues displaying subtitles in the new language. Certain aspects of this element are illustrated in the screen shots

provided in connection with other allegations herein.

18. The Product provides a feeder programmed and configured to extract the references to language-specific contents from a selected queue in accordance with a language selection signal and to feed the extracted references to the language-specific contents to subsequent data processing stages, wherein the references to the language-specific contents in a non-selected queue are not fed to the subsequent data processing stages. For example, the Product extracts packet data related to the language-specific audio tracks from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language audio track is playable at any given time, the packet data related to languages not selected by the user are not fed for playback. Further, the Product extracts packet data related to the language-specific subtitles from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language for subtitles is selectable at any given time, the packet data related to languages not selected by the user are not fed for playback. Certain elements of this limitation are illustrated in the screenshots referenced in connection with other elements herein.

19. The Product provides the claimed data processor for processing a data stream comprising audio and video data wherein at least one of the input buffer, the data stream analyzer, the queuing buffer, and the feeder comprises a hardware implementation. For example, the input buffer, the data stream analyzer, the queuing buffer, and the feeder are implemented in hardware such as computers, TVs, and/or smartphones.

20. Regarding Claim 2, the Product provides the data processor according to Claim 1, wherein the data stream originates from one of an optical disk, a magnetic disk, a hard drive,

a network, a Digital Versatile Disk, and a Blu-ray disk. For example, the data stream provided by the Product from at least a network (such as the Internet).

21. Regarding, Claim 4, the Product provides the data processor according to Claim 1, further comprising a data stream decrypter upstream of the data stream analyzer. On information and belief, the Product encrypts its video content before it is delivered to the user computer in order to prevent unauthorized access to the content. Accordingly the Product's video player includes a data stream decrypter which decrypts the packet data received from Bitmovin before the data analyzer analyzes the data stream to determine language-specific packets in the data stream.

22. Regarding Claim 10, the Product provides the data processor according to Claim 1, wherein the language-specific content is one of an audio stream, a subtitle, a presentation graphic, an interactive graphic, and a credits section of an audio and video presentation. For example, in the case of Bitmovin, the language-specific content is an audio stream and/or a subtitle.

23. Regarding Claim 11, the Product performs and induces others to perform a method for processing a data stream comprising audio and video data. For example, the Product provides a platform that allows customers to transcode digital video and audio to streaming formats using cloud computing, and streaming media players on users' computers, TV and/or smartphones. Further, the Product provides an input buffer configured to buffer the data stream. For example, when users stream video content from the Product's service, the Product buffers the data stream using an input buffer.

The Product performs and induces others to perform the step of analyzing the data stream to find information on a plurality of language-specific contents in different languages.

For example, the Product's service includes "Multi-Language" support, which allows users to switch between different audio languages. On information and belief, for videos which contain multiple language audio tracks, the Product analyzes the data stream to find information such as language name and packet data related to the plurality of language-specific audio tracks. Further, the Product also allows users to switch subtitles in one language to subtitles in a different language. On information and belief, for videos which contain multiple language subtitles, the Product analyzes the data stream to find information such as subtitles and the timestamps at which the language-specific subtitles are to be displayed.

The Product performs and induces others to perform the step of appending information regarding a particular language-specific content to a queue of a plurality of parallel queues, the information in each queue including only references to language-specific content in the same language, the information regarding the particular language-specific content being appended to a parallel queue of the same distinct language, wherein the references point to input buffer items in the input buffer. For example, when users stream a video that contains multiple audio tracks, the Product uses a queuing buffer to queue each of the audio language tracks in a respective parallel queue. The language-specific queues are parallel since the Product allows users to switch between languages even while the video is playing, in which case the video does not restart but simply continues in the new language. Further, when users stream a video that contains subtitles in multiple languages, the Product uses a queuing buffer to queue subtitles corresponding to each of the languages in a respective parallel queue. The language-specific queues are parallel since the Product allows users to switch between languages even while the video is playing, in which case the video does not restart but simply continues displaying subtitles in the new language.

The Product performs and induces others to perform the step of retrieving the references to the language-specific content from a parallel queue selected in accordance with a currently valid language selection signal. For example, the Product extracts packet data related to the language-specific audio tracks from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language audio track is playable at any given time, the packet data related to languages not selected by the user are not fed for playback. Further, the Product extracts packet data related to the language-specific subtitles from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language for subtitles is selectable at any given time, the packet data related to languages not selected by the user are not fed for playback.

The Product performs and induces others to perform the step of feeding the retrieved references to the language-specific content to a subsequent processing stage, wherein the references to the language-specific content of a non-selected parallel queue are not fed to the subsequent processing stage. For example, the Product extracts packet data related to the language-specific audio tracks from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language audio track is playable at any given time, the packet data related to languages not selected by the user are not fed for playback. Further, the Product extracts packet data related to the language-specific subtitles from the selected queue (i.e., according to the language selected by the user) and feeds the buffered packets for playback in synchronization with the video content. Since only one language for subtitles is selectable at

any given time, the packet data related to languages not selected by the user are not fed for playback.

Certain elements of this Claim are illustrated in the screen shots provided in connection with other allegations herein. Certain elements of this Claim are also discussed above in connection with the allegations concerning Claim 1.

24. Regarding Claim 15, the Product provides a non-transitory computer readable digital storage medium comprising stored thereon a computer program code for performing, when running on a computer, a method for processing a data stream comprising audio and video data. The Product includes processors and other hardware, as well as software, for performing the functionality recited in Claim 15. The functionality itself is discussed above in connection with Claims 1 and 11 and is illustrated in the screen shots provided in connection with those claims and/or other allegations herein.

25. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

26. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

27. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

(a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;

(b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,069,546 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);

(c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;

(d) Award Plaintiff pre-judgment and post-judgment interest and costs; and

(e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: June 25, 2018

Respectfully submitted,

/s/Stamatios Stamoulis

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