

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DIGITAL ALLY, INC.,
Petitioner,

v.

UTILITY ASSOCIATES, INC.,
Patent Owner.

Case IPR2014-00725
Patent 6,831,556 B1

Before KALYAN K. DESHPANDE, JAMES B. ARPIN, and
ROBERT J. WEINSCHENK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. *Background*

Digital Ally, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–25 of U.S. Patent No. 6,831,556 B1 (Ex. 1001, “the ’556 patent”). Utility Associates, Inc. (“Patent Owner”) filed a Preliminary Response (Paper 6, “Prelim. Resp.”) to the Petition. On October 1, 2014, we instituted an *inter partes* review of claims 1–7 and 9–25 (“the challenged claims”) of the ’556 patent on the following grounds:

Claim(s)	Statutory Basis	Applied References(s)
1–4, 9, 13–18, and 20–25	35 U.S.C. § 102(e)	U.S. Patent No. 6,246,320 B1 (Ex. 1004, “Monroe ’320”)
5, 6, and 12	35 U.S.C. § 103(a)	Monroe ’320 and U.S. Patent No. 6,389,340 B1 (Ex. 1005, “Rayner”)
7	35 U.S.C. § 103(a)	Monroe ’320, Rayner, and the knowledge of one of ordinary skill in the art
10	35 U.S.C. § 103(a)	Monroe ’320 and U.S. Patent No. 6,518,881 B2 (Ex. 1009, “Monroe ’881”)
11	35 U.S.C. § 103(a)	Monroe ’320 and the knowledge of one of ordinary skill in the art
19	35 U.S.C. § 103(a)	Monroe ’320 and U.S. Patent No. 6,833,865 B1 (Ex. 1008, “Fuller”)

Paper 7 (“Dec. on Inst.”), 22.

After institution, Patent Owner filed a Response (Paper 13, “PO Resp.”) to the Petition, and Petitioner filed a Reply (Paper 16, “Pet. Reply”) to the Response. An oral hearing was held on June 9, 2015, and a transcript of the hearing is included in the record. Paper 26 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(c). We issue this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons set forth below, Petitioner has shown by a preponderance of the evidence that claims 1–7, 9, 10, and 12–25 are unpatentable, but Petitioner has not shown by a preponderance of the evidence that claim 11 is unpatentable.

B. *Related Proceedings*

Petitioner indicates that the '556 patent is the subject of the following district court case: *Digital Ally, Inc. v. Utility Associates, Inc.*, No. 13-cv-2550-SAC/KGS (D. Kan.). Pet. 59.

C. *The '556 Patent*

The '556 patent relates to a surveillance system for capturing video, audio, and data information. Ex. 1001, col. 1, ll. 54–56. In particular, the '556 patent sought to improve existing surveillance systems by replacing the videocassette recorder (“VCR”) with digital capture and storage technology. *Id.* at col. 1, ll. 13–43. The '556 patent describes a surveillance system that captures information using, *inter alia*, video cameras, microphones, and sensors. *Id.* at col. 2, ll. 49–56, col. 3, ll. 44–49, col. 3, l. 56–col. 4, l. 11. Each of the captured video, audio, and data information can be converted to digital format and then combined into one data stream using a multiplexer. *Id.* at col. 3, ll. 34–37, col. 3, ll. 41–44, col. 4, ll. 28–38. The data stream is stored in the surveillance system (*id.* at col. 4, ll. 36–38), and also can be transmitted to another location (*id.* at col. 1, ll. 56–60, col. 5, ll. 45–53). For example, the surveillance system may transmit the data stream from a vehicle to a building. *Id.* The '556 patent explains that the described

surveillance system can be used for police, fire, and rescue vehicles, transportation vehicles, railroads, and airlines. *Id.* at col. 2, ll. 15–19.

D. *Illustrative Claim*

Claims 1, 14, 15, 17, 19, 20, and 22 are independent. Claim 1 is reproduced below.

1. A surveillance system for an emergency response vehicle, comprising:

a device for capturing at least two of video, audio, and data information, said device provided in the emergency response vehicle, and

a server for digitally integrating the captured information into one data stream and storing the data stream in the emergency response vehicle,

wherein said server is operative to transfer the data stream from the emergency response vehicle to a second location.

Id. at col. 8, ll. 42–52.

II. ANALYSIS

A. *Level of Ordinary Skill in the Art*

Petitioner argues that a person of ordinary skill in the art would have “a [Bachelor of Science (“B.S.”)] in electrical engineering, computer science, or related discipline and at least two years industry experience in the field of signal processing system design, or equivalent experience and/or education.” Ex. 1003 ¶ 39. Patent Owner argues that a person of ordinary skill in the art would have “a high school or two-year technical degree with training in evidence collection procedures and one year of experience in video recording software and hardware relating specifically to the emergency response vehicle industry.” PO Resp. 5–6.

Petitioner’s proposed level of ordinary skill in the art is consistent

with the types of problems encountered in the art and the prior art solutions to those problems. *See In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). The '556 patent explains that:

The VCR is a technical device nearing the end of its lifecycle; therefore, no serious advancements are on the drawing board that address the numerous technical issues incumbent to videotape recording. On the other hand, *digital capture and storage* is at the beginning of its technological curve, with rapid development of new devices. The only available means to ensure sufficient quality and control of video recording, access, and storage is an increase in the number of *well-trained persons with those responsibilities*.

Ex. 1001, col. 1, ll. 29–37 (emphasis added). In other words, the '556 patent focuses on transitioning surveillance systems from outdated VCR technology to the rapidly developing technology of digital capture and storage. *Id.* This is also reflected in the claims of the '556 patent, which recite “capturing,” “integrating,” and “storing” information. *See, e.g., id.* at col. 8, ll. 44–49. Petitioner’s proposed level of ordinary skill in the art, thus, appropriately includes an education in electrical engineering or computer science and experience in signal processing, or other related disciplines. Ex. 1003 ¶ 39.

Patent Owner, on the other hand, seeks to limit the level of ordinary skill in the art to those with training in evidence collection procedures and experience specific to the emergency response vehicle industry. PO Resp. 5–6. However, collection of information for evidentiary purposes is just one of several potential uses for the surveillance system described in the '556 patent. Ex. 1001, col. 2, ll. 13–22 (“The present invention simultaneously captures and stores visual, audible, time, data, and motion-related activities *for safety, emergency, and evidentiary purposes* The present invention

is not limited to these applications”) (emphasis added). Similarly, the emergency response vehicle industry is only one of several industries that may use the disclosed surveillance system. *Id.* at col. 2, ll. 15–19 (“The present invention can be deployed on police, fire, and rescue vehicles and is adaptable for use on transportation and industry vehicles, as well as having rail and airline applications.”). We are not persuaded that the level of ordinary skill in the art should be limited based on just some of the possible uses for the surveillance system described in the ’556 patent.

Patent Owner argues that Petitioner’s proposed level of ordinary skill in the art is improper because it requires a college degree when the inventor of the ’556 patent does not have a college degree. PO Resp. 9. Petitioner’s proposed level of ordinary skill includes someone with a bachelor’s degree, but also includes those with “equivalent experience and/or education,” thus indicating that sufficient experience can substitute for a college degree. Ex. 1003 ¶ 39. Consequently, we are not persuaded that Petitioner’s proposed level of ordinary skill in the art excludes the inventor of the ’556 patent.

For the foregoing reasons, we determine that a person of ordinary skill in the art would have had a B.S. in electrical engineering, computer science, or related discipline and at least two years industry experience in the field of signal processing system design, or equivalent experience and/or education.

B. *Claim Construction*

The claims of an unexpired patent are interpreted using the broadest reasonable interpretation in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *In re Cuozzo Speed Techs., LLC*, No. 2014-1301, slip op. at 16–19 (Fed. Cir. July 8, 2015) (“Congress implicitly approved the broadest reasonable interpretation standard in enacting the

AIA,” and “the standard was properly adopted by PTO regulation.”). Claim terms generally are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the specification. *In re Translogic Tech. Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An applicant may provide a different definition of the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). In the absence of such a definition, limitations are not to be read into the claims from the specification. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

1. *vehicle*

Petitioner proposes construing the term “vehicle” in the challenged claims to mean a “machine, such as an automobile, aircraft, or train, that is used to carry or transport persons or goods from a first location to a second location.” Pet. 19. Patent Owner proposes construing the term “vehicle” to mean “a land-based, first-responder emergency response vehicle, such as police cars, ambulances, and the like.” PO Resp. 14. Notably, Patent Owner’s proposed construction of the term “vehicle” is limited to a land-based vehicle and, therefore, excludes an aircraft.

Petitioner submits evidence showing that the ordinary and customary meaning of the term “vehicle” is any means of carrying or transporting something and, thus, includes an aircraft. Pet. 19–20; Ex. 1007, 4. This definition is consistent with the Specification of the ’556 patent, which indicates that the disclosed surveillance system has “airline applications.” Ex. 1001, col. 2, ll. 15–19. Patent Owner, on the other hand, identifies portions of the Specification and prosecution history that describe a land-based, first-responder vehicle as an *example* of a vehicle. PO Resp. 17–18;

Ex. 1001, col. 2, ll. 39–44 (“The embodiment disclosed herein is used in a police car,” but “the present invention is not limited to this *example*.”) (emphasis added); Ex. 1002, 59 (“The present invention is used for emergency response vehicles, *such as* police cars, ambulances, and the like.”) (emphasis added). But the Specification shows that the term “vehicle” is broader. Namely, the ’556 patent states that the disclosed surveillance system is “for use in public and commercial vehicles” and “can be deployed on police, fire, and rescue vehicles and is adaptable for use on transportation and industry vehicles, as well as having rail and airline applications.” Ex. 1001, col. 1, ll. 7–10, col. 2, ll. 15–19. Therefore, we decline to limit the term “vehicle” to particular examples in the Specification or prosecution history. *See Aria Diagnostics, Inc. v. Sequenom, Inc.*, 726 F.3d 1296, 1301 (Fed. Cir. 2013).

Patent Owner also argues that a person of ordinary skill in the art with experience in evidence collection for emergency response vehicles would understand the term “vehicle” to mean a land-based, first-responder vehicle. PO Resp. 18–19 (citing Ex. 2004 ¶¶ 12, 14, 30, 32–34). Patent Owner’s argument is not persuasive because, as discussed above, the level of ordinary skill in the art is not limited to those with experience in evidence collection for emergency response vehicles. *See supra* Section II.A. Further, Patent Owner’s citation to the testimony of its declarant, Mr. John D’Andrea, is not persuasive in light of the intrinsic evidence discussed above. *See Intel Corp. v. VIA Techs., Inc.*, 319 F.3d 1357, 1367 (Fed. Cir. 2003).

For the foregoing reasons, we determine that the term “vehicle” includes an aircraft, but does not otherwise require express construction.

2. *emergency response vehicle*

Petitioner argues that the term “emergency response” is a statement of intended use that is not entitled to patentable weight. Pet. 14. Petitioner alternatively argues that the term “emergency response vehicle” includes an aircraft. *Id.* Patent Owner argues that the term “emergency response” is not a statement of intended use because it adds structure to the claims. Patent Owner proposes construing the term “emergency response vehicle” exactly the same as the term “vehicle,” namely as “a land-based, first-responder emergency response vehicle, such as police cars, ambulances, and the like.” PO Resp. 14.

Patent Owner identifies portions of the Specification and prosecution history that describe a land-based, first-responder vehicle as an *example* of an emergency response vehicle. PO Resp. 17–18; Ex. 1001, col. 2, ll. 39–44; Ex. 1002, 59. But the Specification shows that the term “emergency response vehicle” is broader. Namely, the ’556 patent states that “[t]he present invention can be deployed on police, fire, and rescue vehicles.” Ex. 1001, col. 2, ll. 15–19. As such, the ’556 patent indicates that the disclosed surveillance system can be deployed on *any* police, fire, or rescue vehicle, not just those that are land-based or first-responders. Therefore, we decline to limit the term “emergency response vehicle” to particular examples in the Specification or prosecution history. *See Aria*, 726 F.3d at 1301. Patent Owner’s citation to the testimony of Mr. D’Andrea is not persuasive in light of the intrinsic evidence discussed above. *See Intel*, 319 F.3d at 1367.

For the foregoing reasons, we determine that the term “emergency response vehicle” includes an aircraft, but does not otherwise require express

construction. We address below the parties' arguments regarding whether the term "emergency response" is a statement of intended use.

3. *digitally integrating the captured information into one data stream*

Petitioner proposes construing the phrase "digitally integrating the captured information into one data stream" to mean "combining information output from multiple sources into a single data stream, such that the information can be extracted from the one data stream to obtain exactly the same information prior to combining into the one data stream." Pet. 21.

Patent Owner proposes construing the term "integrating" to mean "combining data in digital form so that it is not superimposed, mixed, laid over, or layered." PO Resp. 37.

The parties agree that the term "integrating" refers to "combining." Pet. 21; PO Resp. 37. This is consistent with the Specification of the '556 patent, which states: "The captured data from the sixteen inputs . . . are . . . *combined* with the video and audio information . . . to create aggregated documentation that is sent to a storage unit 270 in one data stream." Ex. 1001, col. 4, ll. 28–34 (emphasis added). The parties also agree that the term "integrating" does not include superimposing, mixing, laying over, or layering. Pet. 21–22; PO Resp. 36–37; Ex. 1003 ¶ 49; Tr. 9:1–9. This is consistent with statements made by the patentee during prosecution of the application that issued as the '556 patent. Ex. 1002, 129–30.

Petitioner argues that the phrase "the captured information" means "information output from multiple sources." Pet. 21. The phrase "the captured information" refers to information recited previously in the claims. *See, e.g.*, Ex. 1001, col. 8, ll. 44–47. Petitioner's proposed construction improperly overlooks that recited antecedent basis. Thus, we are not

persuaded by Petitioner's argument, and we determine the phrase "the captured information" does not require express construction.

Petitioner also proposes inserting into the claims the requirement that "the information can be extracted from the one data stream to obtain exactly the same information prior to combining into the one data stream." Pet. 21. Petitioner relies on the testimony of its declarant, Dr. Schuyler Quackenbush, that one of ordinary skill in the art would understand the claim language to include this requirement. *Id.* at 22–23 (citing Ex. 1003 ¶¶ 47, 48, 50–55). Dr. Quackenbush testifies that this portion of Petitioner's proposed construction reflects the patentee's argument during prosecution that "integrating" does not include superimposing, mixing, laying over, or layering. Ex. 1003 ¶¶ 51–52. In light of the parties' agreement that "integrating" does not include superimposing, mixing, laying over, or layering, we determine that the additional requirement proposed by Petitioner is unnecessary.

For the foregoing reasons, we construe the term "integrating" to mean "combining." Further, we determine that the term "integrating" does not include superimposing, mixing, laying over, or layering.

4. *Means-Plus-Function Limitations*

In the Decision on Institution, we determined that several limitations in the challenged claims are means-plus-function limitations to be construed in accordance with 35 U.S.C. § 112, ¶ 6, and we determined the recited function and corresponding structure for those limitations. Dec. on Inst. 10–13. The parties do not dispute those constructions. We see no reason now to deviate from the constructions in the Decision on Institution, and, therefore, we adopt the claim constructions below.

Claim Term	Recited Function	Corresponding Structure
means for capturing at least two of video, audio, and data information (claims 14 and 15)	capturing at least two of video, audio, and data information	at least two of a camera, a microphone, and a sensor (Ex. 1001, col. 2, ll. 49–63, col. 3, ll. 41–52, col. 4, ll. 1–11)
means for storing the information in the emergency response vehicle (claims 14 and 15)	storing the information in the emergency response vehicle	a hard drive, a flash memory, or a solid state memory (Ex. 1001, col. 1, ll. 50–53)
means for digitally integrating the information into one data stream (claim 14)	digitally integrating the information into one data stream	a multiplexer/CODEC or a CPU (Ex. 1001, col. 4, ll. 28–46)
means for integrating the information into one data stream (claim 15)	integrating the information into one data stream	a multiplexer/CODEC or a CPU (Ex. 1001, col. 4, ll. 28–46)
means for transmitting the one data stream from the emergency response vehicle to a remote location (claims 14 and 15)	transmitting the one data stream from the emergency response vehicle to a remote location	a wireless modem, a cellular device, a satellite device, a microwave device, or an Ethernet controller (Ex. 1001, col. 4, ll. 12–17, col. 6, ll. 4–11)
means for controlling said digital video camera from the remote location (claim 15)	controlling said digital video camera from the remote location	a camera controller and a wireless transmitter/receiver (Ex. 1001, col. 5, ll. 58–64, Fig. 2)
means for automatically controlling said digital video camera to track movements	automatically controlling said digital video camera to track movements of an object	an automatic tracking camera controller (Ex. 1001, col. 4, ll. 57–59, Fig. 2)

Claim Term	Recited Function	Corresponding Structure
of an object (claim 16)		

C. *Anticipation of Claims 1–4, 9, 13–18, and 20–25*

Petitioner argues that claims 1–4, 9, 13–18, and 20–25 are unpatentable under 35 U.S.C. § 102(e) as anticipated by Monroe '320. Pet. 12. A claim is anticipated if each limitation of the claim is disclosed in a single prior art reference arranged as in the claim. *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1369 (Fed. Cir. 2008). Petitioner provides detailed explanations and evidence showing how Monroe '320 discloses each claim limitation as arranged in the claims. Pet. 30–38, 42–43, 45–51, 53–55. We have considered the parties' arguments and supporting evidence, and we determine that Petitioner has shown by a preponderance of the evidence that claims 1–4, 9, 13–18, and 20–25 are unpatentable as anticipated by Monroe '320. We address below Patent Owner's arguments.

1. *Monroe '320*

Monroe '320 discloses a surveillance system for aircraft, ships, and land vehicles. Ex. 1004, col. 1, ll. 27–34, col. 1, ll. 60–65. The surveillance system in Monroe '320 includes video cameras, microphones, and sensors for capturing video, audio, and data information, respectively. *Id.* at col. 22, ll. 4–10, col. 22, ll. 40–44, col. 22, ll. 48–51, Fig. 15. Monroe '320 discloses a digital multiplexer network that combines the video, audio, and data into a combined, comprehensive output signal. *Id.* at col. 22, ll. 57–64, col. 23, ll. 15–17, Fig. 15. Monroe '320 discloses storing the combined, comprehensive output signal on a recorder in the vehicle and transmitting the combined, comprehensive output signal to a ground station. *Id.* at col. 23, ll. 10–12, col. 23, ll. 17–22.

2. “*Emergency Response Vehicle*”

Independent claims 1, 14, and 15 recite a surveillance system for an emergency response vehicle and recite that certain parts of the system are in the emergency response vehicle. *See, e.g.*, Ex. 1001, col. 8, ll. 42–52. Monroe ’320 discloses a surveillance system for aircraft, ships, and land vehicles that are used primarily for commercial purposes. Ex. 1004, col. 1, ll. 27–34, col. 1, ll. 60–65. Petitioner argues that “[t]he fact that the claimed surveillance system is used in an emergency response vehicle . . . versus a commercial vehicle does not change the structure of the claimed surveillance system or vehicle” and that “placing the structure in a different field of use or environment also does not differentiate over the prior art.” Pet. 15–16.

“It is well settled that the recitation of a new intended use for an old product does not make a claim to that old product patentable.” *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). As such, if Monroe ’320 discloses the same surveillance system recited in claims 1, 14, and 15 of the ’556 patent, then simply adding a different intended use for that system does not make claims 1, 14, and 15 patentable. *Id.* For the reasons discussed herein, Petitioner has shown by a preponderance of the evidence that Monroe ’320 discloses the same surveillance system recited in claims 1, 14, and 15. Therefore, the inclusion of a different intended use for the system, namely that it is used for emergency response purposes, rather than commercial purposes, does not make claims 1, 14, and 15 patentable over Monroe ’320. *Id.* (“Schreiber’s contention that his structure will be used to dispense popcorn does not have patentable weight if the structure is already known, regardless of whether it has ever been used in any way in connection with popcorn.”).

Patent Owner argues that the term “emergency response” is more than a statement of intended use. PO Resp. 14–17. Specifically, Patent Owner argues that the term “emergency response” provides structure to the claims by confirming that the claims: 1) relate to evidence collection; and 2) relate to land-based, first-responder vehicles.¹ *Id.* at 16 (citing Ex. 2004 ¶¶ 13, 18). Patent Owner, however, does not explain specifically why the term “emergency response” provides structure related to *evidence* collection. PO Resp. 16–17. In fact, the ’556 patent expressly differentiates between “emergency” and “evidentiary” purposes. Ex. 1001, col. 2, ll. 13–15. Thus, we are not persuaded that the term “emergency response” confirms that the claims relate to evidence collection or provides structure related to evidence collection. Also, for the reasons discussed above, we are not persuaded that the term “emergency response” limits the claims to a land-based, first-responder vehicle.² *See supra* Section II.B.2.

¹ In the Preliminary Response, Patent Owner argued that the term “emergency response” is not a statement of intended use because it is recited in the body of the claims and because it was added to the claims during prosecution to distinguish the prior art. Prelim. Resp. 8–9. For the reasons set forth in our Decision on Institution, Patent Owner’s arguments are not persuasive. Dec. on Inst. 5–6.

² Even if the term “emergency response” did limit the claims to a land-based, first-responder vehicle, Petitioner still shows by a preponderance of the evidence that the challenged claims are unpatentable. We instituted an *inter partes* review on the ground that claim 10 is unpatentable as obvious over Monroe ’320 and Monroe ’881. Dec. on Inst. 22. As part of that ground, Petitioner argues, and Patent Owner does not dispute, that it would have been obvious to incorporate the surveillance system of Monroe ’320 into the police car in Monroe ’881, which is a land-based, first-responder vehicle. Pet. 43, 56–58.

Patent Owner also argues that *Schreiber* requires Petitioner to show that Monroe '320 discloses “a vehicle capable of being an emergency response vehicle.” PO Resp. 16. We do not agree with Patent Owner’s interpretation of *Schreiber*. In *Schreiber*, the Federal Circuit addressed a statement of intended use (128 F.3d at 1477), and also addressed functional limitations in the claims (*id.* at 1478–79). In addressing those functional limitations, the Federal Circuit concluded there was sufficient evidence that the structure disclosed in the prior art was capable of performing the recited functions. *Id.* Here, Patent Owner does not argue specifically that the term “emergency response” is a functional limitation, and we are not persuaded that it is one. Specifically, responding to an emergency is not something that the vehicle itself *does* as part of the claims; rather, the vehicle is intended to be *used* to respond to an emergency. See *In re Swinehart*, 439 F.2d 210, 212 (CCPA 1971) (“We take the characterization ‘functional’ . . . to indicate nothing more than the fact that an attempt is being made to define something . . . by what it does rather than by what it is (as evidenced by specific structure or material, for example).”).

Moreover, even if we agreed with Patent Owner’s interpretation of *Schreiber*, Petitioner has shown by a preponderance of the evidence that Monroe '320 discloses a vehicle that is capable of being an emergency response vehicle. As discussed above, Monroe '320 discloses an aircraft. Ex. 1004, col. 1, ll. 27–34. Petitioner submits the following evidence showing that an aircraft is capable of being used as an ambulance:

Transportation by aircraft of sick or injured persons may have originated during World War I when wounded were transported from battle fronts to field hospitals in an open cockpit biplane. . . . Many airplane/air ambulance flights are conducted with

small, nondedicated aircraft operated by . . . on-demand air carriers. There is also a contingent of private and public service aircraft operators conducting air ambulance flights.

Pet. 20; Ex. 1006, 2–3. Further, Patent Owner’s declarant, Mr. Jon McChristian, acknowledges that an aircraft can be used as an emergency response vehicle. Pet. Reply 6; Ex. 1012, 50:4–51:11. Patent Owner’s reliance on the testimony of Mr. D’Andrea is not persuasive because he only testifies that airplanes are “not typically used” to respond to emergencies; he does not testify that airplanes are not capable of being used to respond to emergencies. PO Resp. 16; Ex. 2004 ¶ 14; Tr. 57:17–58:13, 59:11–59:25.

3. *“Capturing” Limitation*

The challenged independent claims recite capturing at least two of video, audio, and data information. *See, e.g.*, Ex. 1001, col. 8, ll. 44–46. The surveillance system in Monroe ’320 includes video cameras, microphones, and sensors for capturing video, audio, and data information, respectively. Pet. 31–33; Ex. 1004, col. 22, ll. 4–10, col. 22, ll. 40–44, col. 22, ll. 48–51, Fig. 15. Patent Owner does not dispute that Monroe ’320 discloses this limitation of the challenged claims.

4. *“Integrating” Limitation*

The challenged independent claims recite integrating the captured information into one data stream. *See, e.g.*, Ex. 1001, col. 8, ll. 47–48. The ’556 patent describes a digital multiplexer for integrating the captured video, audio, and data signals into a “composite compressed stream.” Ex. 1001, col. 4, ll. 28–38. Similarly, Monroe ’320 discloses a digital multiplexer network that combines the captured video, audio, and data signals into “a combined, comprehensive output signal.” Pet. 33–35; Ex. 1004, col. 22, ll. 57–64, col. 23, ll. 15–17, Fig. 15.

Patent Owner argues that, in Monroe '320, the captured information “may be displayed, recorded, and/or transmitted in either **a split screen or serial fashion**.” PO Resp. 35 (original emphasis) (quoting Ex. 1004, col. 6, ll. 61–67). According to Patent Owner, one of ordinary skill in the art would understand the split or serial screen in Monroe '320 to disclose mixing or layering the captured information, rather than integrating. PO Resp. 36 (citing Ex. 2003 ¶¶ 21–27). Patent Owner’s argument is not persuasive because the split or serial screen is just one of several embodiments disclosed in Monroe '320. For example, Monroe '320 also discloses an embodiment in which the captured information may be fed simultaneously “to a plurality of distinct monitors,” instead of a split or serial screen. Pet. Reply 12; Ex. 1004, col. 20, ll. 36–38, Fig. 11; Ex. 1012, 100:5–24. Thus, the premise of Patent Owner’s argument—that Monroe '320 *requires* a split or serial screen—is not supported by the disclosure of Monroe '320. Patent Owner’s argument also is not persuasive because Patent Owner does not provide a specific explanation or identify specific evidence showing that the use of a split or serial screen means that the captured information is mixed or layered, rather than integrated. See Pet. Reply 13; PO Resp. 35–38; Ex. 2003 ¶¶ 21–27, 41–44, 53–58; Ex. 2004 ¶ 32.

Patent Owner argues that Monroe '320 uses an *analog* multiplexer and, thus, performs mixing rather than integrating. See PO Resp. 44 (“[O]ne of ordinary skill in the art would view the multimedia multiplexer as necessarily performing an analog mixing (multiplexing) of images, audio, and/or data to create a single composite viewable image (*e.g.*, serial or split-screen).”). Patent Owner’s argument is not persuasive because Monroe '320 expressly discloses using a *digital* multiplexer. Ex. 1004, col. 23, ll. 15–17.

Patent Owner also argues that the split or serial screen in Monroe '320 does not integrate *all* of the captured information because: 1) the split screen “degrades” the captured information; and 2) the serial screen “removes” some of the captured information. PO Resp. 38 (citing Ex. 2003 ¶¶ 21–27, 41–44, 53–58). In addition to the reasons discussed above, Patent Owner’s argument is not persuasive because the challenged claims do not require that the captured information maintain a certain quality, and, thus, any alleged degradation caused by a split screen would not distinguish Monroe '320 from the challenged claims. Also, Patent Owner acknowledges that a serial screen does not actually remove captured information, but, rather, simply captures less information initially. PO Resp. 35 (“[O]nce the camera input is switched from a first camera to a second camera, information is temporarily not captured from the first camera; and will not again be captured from the first camera until the switch device again captures data from that first camera.”).

5. *“Storing” Limitation*

The challenged independent claims recite either storing the captured information or storing the integrated data stream. *See, e.g.*, Ex. 1001, col. 8, ll. 47–49. Monroe '320 discloses storing the combined, comprehensive output signal, including “all video, audio, and digital data,” on a recorder in the vehicle. Pet. 33–35; Ex. 1004, col. 23, ll. 10–12. Patent Owner argues that “Monroe '320 does not store all of the audio, video, and data that it captures” because it uses a serial or split screen. PO Resp. 40–41. For the reasons discussed above with respect to the “integrating” limitation, Patent Owner’s argument is not persuasive. *See supra* Section II.C.4.

Patent Owner also argues that Monroe '320 does not store all the captured information because it discloses a controller for selecting a subset of the captured data for recording. PO Resp. 41–43 (citing Ex. 1004, col. 23, ll. 29–34). Patent Owner's argument is not persuasive. The portion of Monroe '320 cited by Patent Owner relates to controlling the information displayed on a monitor, not the information stored on the recorder. Ex. 1004, col. 23, ll. 29–34. In addition, the portion of Monroe '320 cited by Patent Owner indicates that the controller permits access to “any single sensor signal, or any combination.” *Id.* Because “any combination” of sensor signals includes *all* of the sensor signals, Monroe '320 discloses that the controller permits access to *all* of the sensor signals.

6. “*Transmitting*” Limitation

Independent claims 1, 14, 15, and 19, and dependent claim 18 recite transmitting or transferring the data stream to another location.³ *See, e.g.*, Ex. 1001, col. 8, ll. 50–52. Monroe '320 discloses transmitting or transferring the combined, comprehensive output signal from the aircraft to a ground station. Pet. 35–36; Ex. 1004, col. 23, ll. 17–22.

Patent Owner argues that claims 1, 14, 15, 18, and 19 require transmitting the data stream *from storage* to a second location. PO Resp. 26–31. Patent Owner's argument is not persuasive. Claim 14, for example, recites “storing the information in the emergency response vehicle” and

³ Patent Owner argues that the term “transfer” in claim 1 should be construed to require deletion of the information from the first location. PO Resp. 31, n.10 (citing Ex. 2003 ¶¶ 78–81). Patent Owner's argument is not persuasive because it is premised on the claims being limited to evidence preservation (*see id.*), which is not supported by the claim language, the Specification, or the prosecution history.

“transmitting the one data stream from the emergency response vehicle to a remote location.” Ex. 1001, col. 9, ll. 58–63. Thus, the claim language only specifies that the data stream is transmitted from the vehicle to a remote location; it does not require transmitting the data stream *from storage* in the vehicle to a remote location.

This plain reading of the claim language is consistent with the Specification of the ’556 patent. Figure 2 of the ’556 patent, for example, shows CPU 260 sending the data stream to storage unit 270 for storage and separately sending the data stream to transmission unit 280 for transmission to second location 210. *Id.* at Fig. 2. Thus, according to Figure 2, the data stream can be transmitted from the vehicle to a second location without having to access the storage unit. The ’556 patent also explains that the transmission unit can provide a “live transmission” of information from the vehicle to a second location. *Id.* at col. 5, ll. 45–50. A live transmission indicates that the information is *not* being transmitted from storage. Further, the prosecution history indicates that the patentee temporarily inserted language into the claims that required transmission of “stored information,” but subsequently removed that language from the claims. *Compare* Ex. 1002, 65, *with* Ex. 1002, 87.

Patent Owner argues alternatively that, even if the challenged claims do not require that the data stream is transmitted from storage to another location, the claims nonetheless require that the stored data be the same as the transmitted data. PO Resp. 31–34. Patent Owner points out that Monroe ’320 incorporates by reference U.S. Patent No. 6,366,311 B1 (Ex. 2005, “Monroe ’311”). PO Resp. 31. Monroe ’311 discloses that “the crew could train the monitor and the transceiver on the landing control camera for as

long as necessary without interfering with the recorded sequenced information.” Ex. 2005, col. 8, ll. 9–17. Patent Owner argues that Monroe ’320, when read in light of Monroe ’311, discloses that the data sent to the recorder for storage is different than the data sent to the transceiver for transmission to the ground station. PO Resp. 33–34.

Patent Owner’s argument is not persuasive. Monroe ’320 discloses that “a master multiplexer subsystem . . . produc[es] a combined, comprehensive output signal, as selected, on each of lines 231, 233, and 235.” Pet. 33; Ex. 1004, col. 22, ll. 57–64. Thus, Monroe ’320 discloses that the *same* combined, comprehensive output signal is sent to the recorder (via line 233) and the transceiver (via line 235).⁴ *Id.* at Fig. 15. Monroe ’320 also discloses that the *same* combined, comprehensive output signal is transmitted to the ground or base station (via line 246). *Id.* at col. 23, ll. 17–22, Fig. 15.

The portion of Monroe ’311 cited by Patent Owner describes a feature that “permits the flight crew to override the automatic switching sequence.” Ex. 2005, col. 8, ll. 9–17. This “override” feature is used in connection with the “simple switching scheme” in Figure 3 of Monroe ’311, where each of the plurality of images is sequentially and serially introduced into the monitor, transceiver, and recorder. *Id.* at col. 7, l. 66–col. 8, l. 3. The disclosure in Monroe ’320 relied on by Petitioner, however, does not employ

⁴ During the oral hearing, Patent Owner argued that this portion of Monroe ’320 was raised improperly by Petitioner for the first time in the Reply. Tr. 52:12–17. Patent Owner’s argument is not persuasive. The above-referenced disclosure in Monroe ’320 was identified initially in the Petition (see Pet. 33, 35), and Petitioner simply relied on that disclosure again in the Reply to respond to an argument made by Patent Owner in the Response.

the same simple switching scheme as Figure 3 of Monroe '311. Rather, as discussed above, Monroe '320 discloses combining all the images into a single data signal and then introducing the combined signal to the monitor, transceiver, and recorder. Ex. 1004, col. 22, ll. 57–64, Fig. 15. Thus, we are not persuaded that the cited “override” feature from Monroe '311 is relevant to, or otherwise included in, the cited disclosure of Monroe '320. Further, even if the override feature from Monroe '311 was relevant to the cited disclosure in Monroe '320, we still are not persuaded by Patent Owner’s argument. Although the flight crew may be able to change the information sent to the transceiver, Monroe '320 expressly discloses that, absent such a change by the flight crew, the same information is sent to both the recorder and the transceiver. *Id.* at col. 22, ll. 57–64.

D. *Obviousness of Claims 5–7, 10–12, and 19*

Petitioner argues that claims 5, 6, and 12 are obvious over Monroe '320 and Rayner; claim 7 is obvious over Monroe '320, Rayner, and the knowledge of one of ordinary skill in the art; claim 10 is obvious over Monroe '320 and Monroe '881; claim 11 is obvious over Monroe '320 and the knowledge of one of ordinary skill in the art; and claim 19 is obvious over Monroe '320 and Fuller. Pet. 12–13. A claim is unpatentable as obvious under 35 U.S.C. § 103(a) if the differences between the claimed subject matter 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. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of 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 ordinary skill in the art; and (4) any secondary considerations. *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17–18 (1966).

With respect to claims 5–7, 10, 12, and 19, Petitioner provides detailed explanations showing how the prior art references teach the limitations of the challenged claims, the knowledge of one of ordinary skill in the art at the time of the invention,⁵ and articulated reasons why it would have been obvious to combine the cited teachings. Pet. 38–41, 43–45, 51–53, 56–58. We have considered the parties’ arguments and supporting evidence, and we determine that Petitioner has shown by a preponderance of the evidence that claims 5–7, 10, 12, and 19 are unpatentable. Petitioner, however, has not shown by a preponderance of the evidence that claim 11 is unpatentable. We address below Patent Owner’s arguments.

1. *Analogous Art*

Patent Owner argues that Monroe ’320 is not analogous art and, thus, cannot be used in combination with other references to show that claims 5–7, 10–12, and 19 are unpatentable as obvious. PO Resp. 21–25 (citing *In re Klein*, 647 F.3d 1343, 1348 (Fed. Cir. 2011)). We disagree. Petitioner has shown that the ’556 patent and Monroe ’320 relate to the same field of endeavor, namely surveillance systems for capturing video, audio, and data information. Pet. Reply 5; Ex. 1001, col. 1, ll. 7–10 (“[T]he present invention is directed to a system for use in public and commercial vehicles to capture video, audio, and related information.”); Ex. 1004, col. 1, ll. 27–33 (“The subject invention is generally related to safety and surveillance

⁵ We may consider the knowledge possessed by a person having ordinary skill in the art when analyzing obviousness under 35 U.S.C. § 103(a). See *KSR*, 550 U.S. at 418.

equipment for aircraft, ships and other commercial vehicles and is specifically directed to a comprehensive multi-media security surveillance system.”). In addition, Petitioner has shown that the ’556 patent and Monroe ’320 sought to address the same problem, namely improving the ability of surveillance systems to store and provide access to captured video, audio, and data. Pet. Reply 5; Ex. 1001, col. 7, ll. 46–51 (“[T]he system of the present invention is easier to operate and maintain, reduces the risk of data loss, and overcomes data retrieval problems with current surveillance systems.”); Ex. 1004, col. 8, ll. 33–39 (“It is a primary object and feature of this invention to provide a comprehensive surveillance and monitoring system . . . whereby communication of all data including live video and/or audio transmissions can be transmitted.”).

Patent Owner argues that the field of endeavor and problem sought to be solved by the ’556 patent are “specifically related to evidence preservation,” and that Monroe ’320 is not related to evidence preservation. PO Resp. 22 (citing Ex. 2004 ¶¶ 29–34). The claims of the ’556 patent do not mention evidence preservation, and the Specification indicates the disclosed system can be used for different purposes, including safety, emergency, and evidentiary purposes. Ex. 1001, col. 2, ll. 13–15. Therefore, we are not persuaded that the field of endeavor and problem to be solved by the ’556 patent are limited to evidence preservation.

Patent Owner also argues that the field of endeavor and problem sought to be solved by the ’556 patent are related to land-based, first-responder vehicles, whereas Monroe ’320 relates to commercial aircraft. PO Resp. 11–13. As discussed above, the claims of the ’556 patent are not limited to land-based, first-responder vehicles (*see supra* Sections II.B.1.,

II.B.2.), and the Specification indicates that the disclosed system can be used in “commercial vehicles” (Ex. 1001, col. 1, ll. 7–10) and has “airline applications” (*id.* at col. 2, ll. 15–22). Therefore, we are not persuaded that the field of endeavor and problem sought to be solved by the ’556 patent are limited to land-based, first-responder vehicles.

Patent Owner also argues that Monroe ’320 is not analogous art because the Examiner who handled prosecution of the application that issued as the ’556 patent was aware of Monroe ’320, but “did not cite [the] Monroe ’320 patent as relevant.” PO Resp. 22–25. Patent Owner’s argument is not persuasive. Monroe ’320 is not listed as considered by the Examiner on the face of the ’556 patent, and Patent Owner does not identify specific evidence showing that the Examiner actually was aware of Monroe ’320. Patent Owner also acknowledges that “it may be debated whether the Monroe ’320 patent was known to the Examiner.” *Id.* at 22–23. Moreover, Patent Owner does not provide a persuasive reason why the scope of analogous art under 35 U.S.C. § 103(a) should be limited to only those references that the Examiner applied during prosecution.

2. *Secondary Considerations*

Patent Owner submits a license agreement (Ex. 2016)⁶ as evidence of

⁶ Patent Owner filed an unredacted license agreement as Ex. 2011, on January 19, 2015, for the Board and parties only. We granted Patent Owner’s Motion to Seal Ex. 2011. *See* Paper 15. Per our request, Patent Owner filed a redacted license agreement on February 13, 2015, but improperly labeled that new exhibit also as Ex. 2011. We have renumbered the redacted license agreement *sua sponte* as Ex. 2016. We do not rely on Ex. 2011 in this Decision, but the parties are reminded that confidential information that is subject to a protective order ordinarily becomes public 45 days after final judgment. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012). After final judgment, a party may file a

non-obviousness. PO Resp. 45. In particular, Patent Owner argues that “a license was granted under the ’556 Patent by Patent Owner’s predecessor in interest to a well-known telecommunications manufacturer” and that “such a sophisticated licensee . . . would not pay such a significant sum if the inventions were not an important advance in the industry.” *Id.* (original emphasis). Petitioner argues that the license submitted by Patent Owner covers a variety of intellectual property rights, and Patent Owner does not establish any nexus to the ’556 patent. Pet. Reply 15. We agree that Patent Owner fails to demonstrate the necessary nexus between the challenged claims and the alleged evidence of commercial success.

The mere existence of a license, without showing a nexus to the merits of the invention, is insufficient to overcome a conclusion of obviousness. *In re Antor Media Corp.*, 689 F.3d 1282, 1293–94 (Fed. Cir. 2012). Here, Patent Owner identifies the existence of a license covering a variety of intellectual property rights, including the ’556 patent, and simply speculates that the ’556 patent was important to the licensee. PO Resp. 45. That alone is insufficient to overcome the evidence of obviousness set forth by Petitioner. *Antor Media*, 689 F.3d at 1293–94.

3. *Claim 11*

Claim 11 recites “[t]he surveillance system according to claim 3, wherein the multiplexer *compresses* the captured information.” Ex. 1001, col. 9, ll. 44–45 (emphasis added). Monroe ’320 discloses a multiplexer that may “perform *decompression* functions for compressed command streams and compressed audio or video.” Ex. 1004, col. 22, ll. 64–66 (emphasis

motion to expunge confidential information from the record prior to the information becoming public. 37 C.F.R. § 42.56.

added). Petitioner argues, based on Dr. Quackenbush's testimony, that it would have been obvious for the multiplexer in Monroe '320 to also perform compression (in addition to decompression). Pet. 44 (citing Ex. 1003 ¶¶ 63–65). Dr. Quackenbush testifies that: "To decompress the information, the information must first be compressed. If the multiplexer is performing the decompression, then it would have been obvious for the multiplexer to perform the compression." Ex. 1003 ¶ 64.

We are not persuaded by Dr. Quackenbush's testimony. Although Dr. Quackenbush may be correct that information must be compressed before it is decompressed, Dr. Quackenbush does not provide an articulated reason why it would have been obvious for the multiplexer in Monroe '320 to perform that compression. Tr. 23:23–25:4; Ex. 1003 ¶¶ 63–65. As Patent Owner points out, Monroe '320 teaches that a separate compressor is used to compress an audio or video signal *before* that signal is sent to the multiplexer. PO Resp. 44; Ex. 1004, col. 21, ll. 62–66, col. 22, ll. 4–10, Figs. 14a, 14b, 14c. Therefore, Monroe '320 teaches using components other than the multiplexer to perform compression, and Petitioner does not provide an articulated reason why it would have been obvious for the multiplexer to perform that compression instead. Tr. 23:23–25:4; Ex. 1003 ¶¶ 63–65. Petitioner has not shown by a preponderance of the evidence that claim 11 is unpatentable as obvious over Monroe '320 and the knowledge of one of ordinary skill in the art. See *KSR*, 550 U.S. at 418.

E. *Patent Owner's Motion to Exclude*

Patent Owner also filed a Motion to Exclude (Paper 21, "Mot."), to which Petitioner filed an Opposition (Paper 24, "Opp."), and Patent Owner filed a Reply (Paper 25, "Reply"). Patent Owner argues that Exhibits 1003,

1004, 1006, 1008, 1010, and portions of Exhibit 1012 should be excluded. Mot. 1, 3, 7. We have considered the parties' arguments, and, for the reasons discussed below, Patent Owner's Motion is *denied in part* and *dismissed in part*.

1. *Exhibits 1006 and 1010*

Exhibit 1006 is a Federal Aviation Administration ("FAA") Advisory Circular, and Exhibit 1010 is an email from the FAA to Ajay Sharma. Patent Owner argues that Exhibits 1006 and 1010 should be excluded as irrelevant under Fed. R. Evid. 402, and prejudicial under Fed. R. Evid. 403, because Exhibits 1006 and 1010 were not relied upon in the Decision on Institution. Mot. 2. Patent Owner does not explain further why those exhibits are irrelevant or prejudicial. *Id.* Patent Owner also argues that Exhibit 1010 should be excluded as impermissible hearsay under Fed. R. Evid. 802. Mot. 2. Patent Owner does not explain further why that exhibit is hearsay. *Id.*

We are not persuaded that Exhibit 1006 is irrelevant or prejudicial.⁷ Petitioner submitted Exhibit 1006 with its Petition to show that an aircraft can be used as an ambulance to respond to emergencies. Pet. 20. Exhibit 1006 is relevant to an issue that Patent Owner raised during this review (*see supra* Section II.C.2), and Patent Owner had the opportunity to address Exhibit 1006 in its Response to the Petition.

For the foregoing reasons, Patent Owner's Motion to Exclude Exhibit

⁷ Further, as in a bench trial, evidence should not be excluded before the Board in an *inter partes* review under Fed. R. Evid. 403, on the grounds that it is unfairly prejudicial. *See United States v. Preston*, 706 F.3d 1106, 1117–18 (9th Cir. 2013); *Tracinda Corp. v. DaimlerChrysler AG*, 362 F.Supp. 2d 487, 497 (D. Del. 2005).

1006 is *denied*. Patent Owner's Motion to exclude Exhibit 1010 is *dismissed as moot* because this Decision does not rely on Exhibit 1010.

2. *Exhibits 1004 and 1008*

Exhibit 1004 is Monroe '320, and Exhibit 1008 is Fuller. Patent Owner argues that Exhibits 1004 and 1008 should be excluded as non-analogous art because they do not relate to evidence collection systems for emergency response vehicles. Mot. 2–3. Patent Owner, however, does not identify any basis in the Federal Rules of Evidence for excluding Exhibits 1004 and 1008. *Id.* Moreover, as discussed above, the relevant field of endeavor and problem to be solved by the '556 patent are not limited to evidence collection systems for emergency response vehicles. *See supra* Section II.D.1. Thus, we are not persuaded that either Exhibit 1004 or Exhibit 1008 is non-analogous art with respect to the '556 patent. For the foregoing reasons, Patent Owner's Motion to Exclude Exhibits 1004 and 1008 is *denied*.

3. *Exhibit 1003*

Exhibit 1003 is the declaration of Dr. Quackenbush. Patent Owner argues that Exhibit 1003 should be excluded as irrelevant under Fed. R. Evid. 402, prejudicial under Fed. R. Evid. 403, and improper under Fed. R. Evid. 702(c), because Dr. Quackenbush applied the wrong level of ordinary skill in the art. Mot. 6. Patent Owner, however, acknowledges that such “[d]isputes about factual underpinnings relied on for expert testimony go to the weight of the evidence rather than its admissibility.” *Id.* at 5. Moreover, as discussed above, we determine that Dr. Quackenbush applied the correct level of ordinary skill in the art. *See supra* Section II.A. For the foregoing reasons, Patent Owner's Motion to Exclude Exhibit 1003 is *denied*.

4. *Exhibit 1012*

Exhibit 1012 is the cross examination testimony of Patent Owner's declarant, Mr. McChristian. Patent Owner objects to Petitioner's use of the testimony at page 92, line 17, to page 93, line 7, of Exhibit 1012, because Petitioner's questions were "vague and unduly limiting." Mot. 7. Patent Owner also contends that Petitioner ignores the relevant teachings of Monroe '311 and Mr. McChristian's re-direct testimony. *Id.* at 7–8. We are not persuaded that the cited portions of Exhibit 1012 should be excluded. Rather, the cited testimony may be given the appropriate weight when placed in the context of Petitioner's questions and Mr. McChristian's re-direct testimony. Patent Owner's Motion to Exclude certain portions of Exhibit 1012 is also *dismissed as moot* because this Decision does not rely on those portions of Exhibit 1012.

III. CONCLUSION

Petitioner has shown by a preponderance of the evidence that claims 1–4, 9, 13–18, and 20–25 are unpatentable under 35 U.S.C. § 102(e) as anticipated by Monroe '320; claims 5, 6, and 12 are unpatentable under 35 U.S.C. § 103(a) as obvious over Monroe '320 and Rayner; claim 7 is unpatentable under 35 U.S.C. § 103(a) as obvious over Monroe '320, Rayner, and the knowledge of one of ordinary skill in the art; claim 10 is unpatentable under 35 U.S.C. § 103(a) as obvious over Monroe '320 and Monroe '881; and claim 19 is unpatentable under 35 U.S.C. § 103(a) as obvious over Monroe '320 and Fuller. Nevertheless, Petitioner has not shown by a preponderance of the evidence that claim 11 is unpatentable under 35 U.S.C. § 103(a) as obvious over Monroe '320 and the knowledge of one of ordinary skill in the art.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1–7, 9, 10, and 12–25 of the '566 patent are shown unpatentable;

FURTHER ORDERED that claim 11 of the '566 patent is not shown unpatentable; and

FURTHER ORDERED that, because this is a Final Written Decision, parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2014-00725
Patent 6,831,556 B1

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