

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

OLIVISTAR, LLC,
Patent Owner.

Case IPR2015-01217
Patent 8,239,347 B2

Before JAMESON LEE, BARBARA A. PARVIS, and SCOTT C. MOORE,
Administrative Patent Judges.

MOORE, *Administrative Patent Judge.*

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner filed a Petition (Paper 1; “Pet.”) to institute an *inter partes* review of claims 1, 3, 4, 8–12, and 17–20 of U.S. Patent No. 8,239,347 B2 (Ex. 1001; “the ’347 Patent”). Patent Owner filed a Preliminary Response (Paper 12; “Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

On this record and for the reasons discussed below, we do not institute an *inter parties* of any claim of the ’347 Patent. The Petition is *denied*.

II. BACKGROUND

A. *Related Proceedings*

Patent Owner has filed 21 separate lawsuits alleging infringement of the ’347 Patent. Pet. 46–47; Paper 6, 2–4. As of the date Patent Owner filed its Preliminary Response, 19 of these lawsuits were still pending. Paper 6, 2–4.

B. *The ’347 Patent*

The ’347 Patent is titled “System and Method for Customizing the Storage and Management of Device Data in a Networked Environment.” Ex. 1001, Title. The disclosed invention relates to customizing the storage of data according to data attributes. *Id.*, Abstract.

The Specification of the ’347 Patent explains that many entities generate large amounts of computer data, including data that can be processed and discarded, and data that needs to be maintained for a number of possible uses (“archival” data). Ex. 1001, 1:17–25. Accordingly, these

entities seek out storage solutions that are appropriate considering the type and amount of data being archived. *Id.* However, traditional file management systems have several disadvantages, including an “inability to differentiate between different data types” and an inability to “provide a manner to customize data storage based upon device data attributes” (i.e., attributes of the device that generated the data). *Id.* at 1:51–56. Thus, according to the Specification, “there is a need for a system and method for managing the storage and archival of device data, including multi-media data, according to device data attributes.” *Id.* at 2:11–13.

The ’347 Patent discloses a system and method that are intended to address this need. *See* Ex. 1001, 2:23–24. One disclosed embodiment is a system that includes monitoring devices that generate “monitoring device data characterized by one or more data archival attributes.” *Id.* at 2:50–54. The system also includes a monitoring device processor that obtains an “archival profile corresponding to the one or more data archival attributes and for processing the monitoring device data according to the archival profile.” *Id.* at 2:54–58. The system further includes at least one data repository for storing the monitoring device data “according to the archival profile.” *Id.* at 2:58–60.

C. Challenged Claims

Challenged claims 1 and 17 are independent. Ex. 1001, 13:11–33, 14:27–45. Each of challenged claims 3, 4, and 8–12 depends either directly or indirectly from claim 1. *Id.* at 13:37–40, 13:55–16:12. Challenged claims 18–20 depend either directly or indirectly from claim 17. *Id.* at 14:46–63.

Independent claim 1 is illustrative and is reproduced below.

1. A system for processing monitoring device data, the system comprising:

one or more monitoring devices generating monitoring device data characterized by one or more data archival attributes;

a monitoring device data processor for obtaining an archival profile corresponding to the one or more data archival attributes and for processing the monitoring device data according to the archival profile; and

at least one data repository for storing the monitoring device data according to the archival profile,

wherein the monitoring device data processor determines whether the archival profile is associated with one or more archival attributes of the monitoring device data, and

wherein, if the archival profile is associated with one or more archival attributes, the monitoring device data processor:

processes the monitoring device data having one or more archival attributes that match the archived profile into a compressed format, and

selectively stores the monitoring device data in the compressed format on the at least one data repository.

Ex. 1001, 13:11–33.

D. References and Materials Relied Upon

Petitioner relies on the following references and materials in support of the asserted grounds of unpatentability:

References and Materials	Exhibit No.
U.S. 2003/00225599 (Pub. Feb. 6, 2003) (“Monroe”)	1003
US 6,708,292 (filed Aug. 18, 2000; iss. Mar. 16, 2004) (“Mangasarian”)	1004
US 6,975,617 (filed Mar. 23, 2001; iss. Dec. 13, 2005) (“Walker”)	1005
Declaration of Zaydoon Jawadi In Support of Petition for <i>Inter Partes</i> Review of U.S. Patent No. 8,239,347 (“Jawadi Decl.”)	1006

E. Asserted Grounds of Unpatentability

Challenged Claims	Statutory Basis	Reference(s)
1, 3, 4, 8–12, and 17–20	35 U.S.C. 102(e) ¹	Monroe
1, 3, 4, 9, 10, 17, and 20	35 U.S.C. § 103	Mangasarian and Walker

Pet. 5.

III. ANALYSIS

A. Claim Construction

1. Claim Construction Standard

Consistent with the statute and the legislative history of the AIA, we interpret claims of an unexpired patent using the broadest reasonable interpretation in light of the specification of the patent. 37 C.F.R. § 42.100(b); *In re Cuozzo Speed Techs. LLC*, 793 F.3d 1268, 1278 (Fed. Cir.

¹ The Leahy-Smith America Invents Act (“AIA”), Pub. L. 112-29, included revisions to 35 U.S.C. § 102 that became effective on March 16, 2013. Because the ’347 Patent issued from an application that was filed before March 16, 2013, we will refer to the pre-AIA version of 35 U.S.C. § 102.

2015) (“Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA”); *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012). In general, claim terms are given their ordinary and customary meaning, as would be understood by a person of ordinary skill in the art in the context of the specification. *See In re Translogic Tech. Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). An applicant may choose, however, to provide a 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 from the specification into the claims. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

2. “archival attribute” and “archival profile”

Petitioner proposes that “archival attribute” be construed as “information included in or characteristics of the data received from the monitoring device.” Pet. 5–6. Petitioner proposes that “archival profile” be construed as “a specified set of data characteristics.” *Id.* at 6–7. Patent Owner contends that Petitioner’s constructions are overly broad, *inter alia*, because they read the word “archival” out of both claim terms. Prelim. Resp. 3, 6. Patent Owner contends that that the claim language is sufficiently clear, and that these terms need not be construed. *See id.* at 5, 7–8.

We agree with Patent Owner’s position that Petitioner’s constructions are overbroad. The challenged claims all relate to a system employs “archival attributes” and “archival profiles” to determine whether to store data in a “data repository,” or a method of “selectively archiving” data that

employs “archival attributes” and “archival profiles.” Ex. 1001, 13:11–33, 14:28–46. In the context of computers and computer systems, the term “archival” refers to long-term, persistent storage of computer data.² In contrast, the term “buffer” ordinarily and customarily refers to memory that temporarily holds information, for example, to account for differences in data flow rates between computer components.³ Similarly, random access memory (“RAM”) is non-persistent memory that temporarily stores data while that data is being processed.⁴ Thus, the plain and ordinary meaning of

² See Ex. 3001 (definition from *Academic Press Dictionary of Science and Technology*, defining “archival storage” as “[s]torage media, such as off-line magnetic tapes or disks, used for long-term storage of data seldom accessed, such as transaction history or backup copies of working programs”); Ex. 3002 (definition from *Webster’s New World Computer Dictionary*, defining “archive” as “an infrequently used but comprehensive collection of data”).

³ See Ex. 3003 (definition from *Webster’s New World Computer Dictionary*, defining “buffer” as “a unit of memory given the task of holding information temporarily, especially while waiting for slower components to catch up”); Ex. 3004 (definition from *Academic Press Dictionary of Science and Technology*, defining “buffer” as “[a]n intermediate storage area used to compensate for differences in rates of data flow when information is being transmitted from one computer device to another”).

⁴ See, e.g., Ex. 3005 (definition from *Webster’s New World Computer Dictionary*, defining “random access memory” as “[t]he computer’s primary working memory In RAM, the CPU can write and read data. Most programs set aside a portion of RAM as a temporary workspace for data so that one can modify (rewrite) as needed until the data is ready for printing or storage on secondary storage media, such as a hard or floppy disk. RAM does not retain its contents when the power to the computer is switched off.”).

“archival” does not encompass the storage of data in buffer memory or RAM.

This interpretation of “archival” is consistent with the Specification. In particular, the Specification indicates that “archival” data is data that “needs to be maintained for a number of possible uses,” and does not include data that “can be generated, processed, and discarded after its intended purpose.” *Id.* at 1:20–23. The Specification also provides several examples of “archival” storage, all of which are types of long-term, persistent storage. *See id.* at 1:26–36 (indicating that archived data may be stored in “storage devices, such as magnetic media and optical media that are directly attached to a computing device generating the data to be archived,” “special-purpose file management server-computing devices [that] function as a storage destination for a number of computing devices,” and “multiple file management servers functioning[] as a storage location for a number of networked computing devices.”).

Independent claims 1 and 17 both require selectively storing monitoring device data “if the archival profile is associated with one or more archival attributes.” Ex. 1001, 13:26–33; 14:39–46. For the reasons set forth above, based on the current record, and for purposes of this Decision, we are persuaded that the claim term “archival attribute” does not encompass an attribute relating to the storage of data in buffer memory or RAM, and that the claim term “archival profile” does not encompass a profile relating to the storage of data in buffer memory or RAM. No further construction of these claim terms is necessary at this time. *See Wellman, Inc. v. Eastman Chem. Co.*, 642 F.3d 1355, 1361 (Fed. Cir. 2011) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir.

1999)) (“[C]laim terms need only be construed ‘to the extent necessary to resolve the controversy.’”).

B. Asserted Grounds of Unpatentability

1. Overview

Petitioner argues that challenged claims 1, 3, 4, 8–12, and 17–20 are unpatentable under 35 U.S.C. § 102(e) because they are anticipated by Monroe. Pet. 7. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987) (citation omitted). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990). “[U]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed, and thus, cannot anticipate under 35 U.S.C. § 102.” *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008); *see also In re Arkley*, 455 F.2d 586 (CCPA 1972).

Petitioner also argues that challenged claims 1, 3, 4, 9, 10, 17, and 20 are unpatentable under 35 U.S.C. § 103 over Mangasarian and Walker. Pet. 25. A patent claim is unpatentable under 35 U.S.C. § 103 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 such subject matter pertains.” The question of obviousness under 35 U.S.C. § 103 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 skill in the art;⁵ and (4) objective evidence of nonobviousness, i.e., secondary considerations.⁶ *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

2. Anticipation of Claims 1, 3, 4, 8–12, and 17–20 by Monroe

a. Overview of Monroe

Monroe relates to the collection, sending, archiving, and retrieving of event data (e.g., video data or event data). Ex. 1003 ¶ 2. Monroe describes a network-based situational awareness system that consists of intelligent sensors, servers, and monitor stations interconnected by wired and wireless network connections. *Id.* ¶ 25. “[R]aw sensor data such as images, video, audio, temperature, contact closure and the like” is “collected, analyzed, archived, and distributed.” *Id.*

⁵ For purposes of this Decision, we consider the cited references to be representative of the level of ordinary skill in the art. See *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

⁶ The current record does not contain any evidence of secondary considerations.

Figure 7 of Monroe is reproduced below.

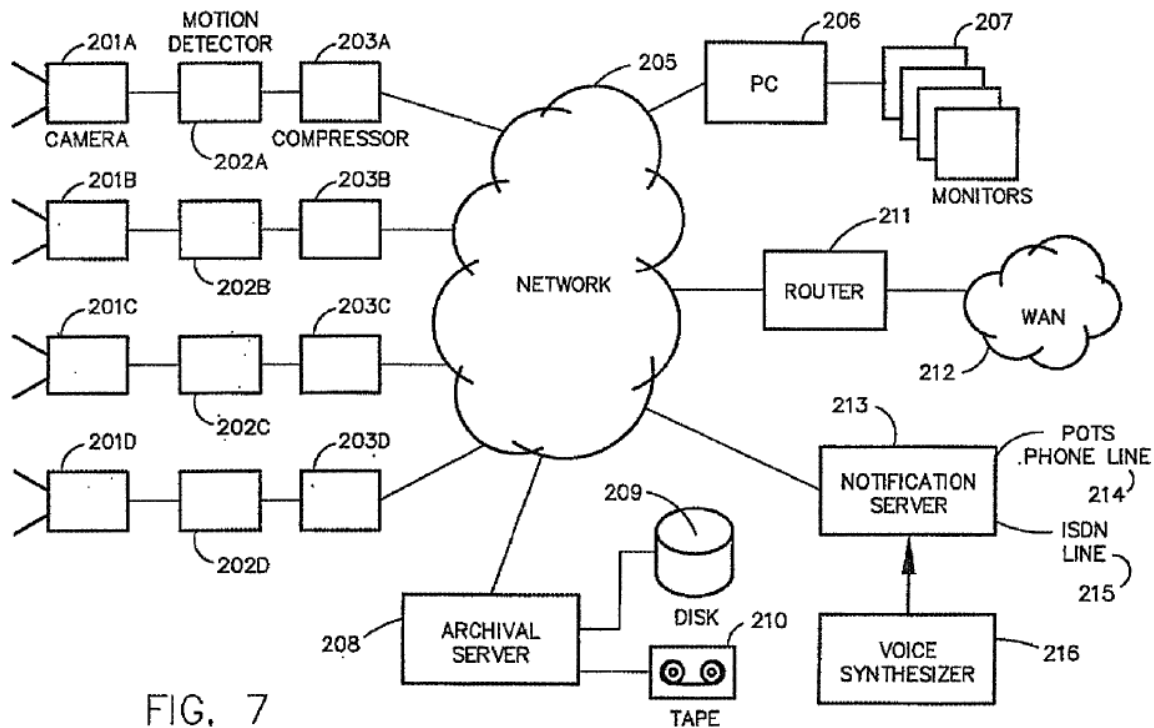


Figure 7 depicts cameras 201(A) through 201(D), which are disposed around a facility, and detect scenes of interest. Ex. 1003, ¶ 211. Each camera contains a motion detector 202 that detects motion in the scenes of interest, and performs image processing to yield further information concerning, for example, the location of motion or the amount of direction of the motion. *Id.* The cameras may be programmed to transmit to the network only those video scenes or still images that contain motion of interest. *Id.* ¶ 213. Video scenes or still images are optionally compressed in compressors 203. *Id.* ¶ 212. The video scenes or still images are then conveyed via network 205 to monitor station 206, or to archive server 208 for image storage on disk 209 or tape 210. *Id.*

b. Analysis

Independent Claim 1

The second element of claim 1 recites a “monitoring device data processor.” Ex. 1001, 13:16. The fourth element of claim 1 recites that “the monitoring device data processor determines whether the archival profile is associated with one or more archival attributes of the monitoring device data.” *Id.* at 13:22–24. The final element of claim 1 recites that “the monitoring device data processor . . . selectively stores the monitoring device data in the compressed format on the at least one data repository.” Ex. 1001, 13:11–33. In order to demonstrate anticipation, Petitioner must demonstrate that Monroe discloses “not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim.” *Net MoneyIN*, 545 F.3d at 1371. Thus, Petitioner cannot demonstrate anticipation by picking and choosing different “monitoring device data processors” when discussing different elements of claim 1. Instead, Petitioner must identify a “monitoring device data processor” that performs all of the steps recited above. Petitioner fails to do so.

The Petition initially alleges that the claimed “monitoring device data processor” is disclosed by Monroe’s descriptions of “processor[s] of servers, PCs, intelligent cameras, or intelligent sensors.” Pet. 8.⁷ Referring to Figure

⁷ Petitioner supports its argument that Monroe discloses a “monitoring device processor” with citations to paragraphs 62 and 68 of the Jawadi Declaration and the accompanying claim chart. See Pet. 11 (citing Ex. 1006, ¶¶ 62, 68; Ex. 1006, internal exhibit A at claim 1[b]). The claim chart attached to the Jawadi Declaration is 114 pages in length. See Ex. 1006, 39–

7 (reproduced above) for purposes of illustration, Petitioner is asserting that the claimed “monitoring device processor” may be situated at cameras 201 (e.g., a processor located within motion detector 202), PC 206, or archival server 208. *See id.*, Fig. 7.

In its discussion of the second and fourth elements of claim 1, Petitioner asserts that the “monitoring device data processor” of claim 1 corresponds to processors within the “intelligent cameras” and “intelligent sensors” of Monroe. *See* Pet. 11, 13. Petitioner also emphasizes the following:

while continuous data is captured by the camera, “only when a scene changes from the previous captured image is it required that the image be transmitted to a remote monitoring station, and more importantly, stored on the archive database. . . . [T]he level of change is monitored at the camera and only specific criteria trigger a transmission.” * * * “[T]he camera or encoder appliance only transmits images or video that has a pre-indication of a change of a previous scene, greatly reducing the amount of data to be transmitted over the chosen conduit.”

153. Although our Rules do not prohibit a witness from presenting testimony in the form of a claim chart, the “practice of citing [a] Declaration to support conclusory statements that are not otherwise supported in the Petition . . . amounts to incorporation by reference.” *Cisco Systems, Inc. v. C-Cation Techs., LLC*, Case IPR2014-00454, Paper 12, at 9 (PTAB Aug. 29, 2014) (informative). Such incorporation by reference is improper. 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”); *see also DeSilva v. DiLeonardi*, 181 F.3d 865, 866–67 (7th Cir. 1999) (Incorporation by reference “amounts to a self-help increase in the length of the [] brief A brief must make all arguments accessible to the judges, rather than ask them to play archeologist with the record.”). Accordingly, we consider Petitioner’s claim chart only to the extent it provides evidentiary support for arguments that are fully set forth in the Petition.

Pet. 11–12 (citing Ex. 1003, ¶¶ 32, 36). Thus, Petitioner unequivocally asserts that the “monitoring device data processor” of the fourth step of claim 1 is located at an “intelligent camera” or “intelligent sensor.”

In contrast, when discussing the claim limitation requiring that the “monitoring device data processor . . . selectively stor[e] the monitoring device data on the [at least one] data repository,” Petitioner cites descriptions in Monroe of compressed video being “conveyed via network 205 . . . to an archive server 208 for image storage on disk 209 or tape 210.” Pet. 2, 14–15 (citation omitted). Although Petitioner never explicitly states which “monitoring processor” allegedly performs this step, the cited portion of Monroe make clear that the storage of data to disk 209 or tape 210 is performed by archive server 208. Petitioner does not allege that a processor situated at an “intelligent camera” or “intelligent sensor” selectively stores monitoring device data on disk 209 or tape 210. *See id.*

Because the Petition fails to demonstrate that Monroe discloses the same “monitoring device data processor” performing all of the steps required by claim 1, Petitioner has not shown a reasonable likelihood that it would prevail on its anticipation challenge to claim 1.

Independent Claim 17

Independent claim 17 recites “[a] computer-readable medium having computer-executable instructions . . . the instructions performing a method” consisting of several steps. Ex. 1001, 14:27–45. Petitioner does not make any separate substantive arguments with respect to the steps of claim 17, but instead incorporates by reference its arguments with respect to claim 1. *See* Pet. 22–23. Petitioner concedes that the preamble’s recitation of “a

computer-readable medium” is limiting, and asserts that Monroe’s teaching that “the disclosed methodology will be performed by processing devices executing stored instructions” discloses this limitation. Pet. 23 (citation omitted).

As discussed above, however, Petitioner has failed to identify a disclosure in Monroe of the same “monitoring device data processor” performing the acts required by claim 1. Thus, Petitioner’s argument that the methodology of Monroe is performed “by processing devices executing stored instructions” does not establish that Monroe discloses “a computer-readable medium having computer-executable instructions” that perform all steps of claim 17, as recited in the preamble.

Though Petitioner never explains its contentions with specificity, it appears that Petitioner is asserting that the first three steps of claim 17 are performed by executable instructions residing on a computer-readable storage medium located within the intelligent cameras and/or intelligent sensors of Monroe. In contrast, Petitioner appears to assert that the step of “selectively storing the incoming monitoring device data in the compressed format on a storage medium” is performed by executable instructions residing on archive server 208. Ex. 1001, 14:45–46.

Because the Petition fails either to demonstrate that the preamble of claim 17 is not limiting, or to persuasively show that Monroe discloses the same “monitoring device data processor having computer-executable instructions” performing all steps of the claimed method, Petitioner has not shown a reasonable likelihood that it would prevail on its anticipation challenge to claim 17.

Dependent Claims 3, 4, 8–12, and 18–20

Each of claims 3, 4, 8–12, and 18–20, depends from claim 1 or claim 17, and thus incorporates all limitations of claim 1 or claim 17. Petitioner's challenges to claims 3, 4, 8–12, and 18–20 suffer from the same deficiencies discussed above with respect to claims 1 and 17. Thus, Petitioner has not shown a reasonable likelihood that it would prevail on its anticipation challenge to claims 3, 4, 8–12, and 18–20.

3. Obviousness of Claims 1, 3, 4, 9, 10, 17, and 20 over Mangasarian and Walker

a. Overview of Mangasarian

Mangasarian discloses a system and method for gathering data packets on a network, capturing at least some of the packets in a data buffer, classifying the captured data, and analyzing the stored data. Ex. 1004, 2:28–37. Figure 1 of Mangasarian is reproduced below.

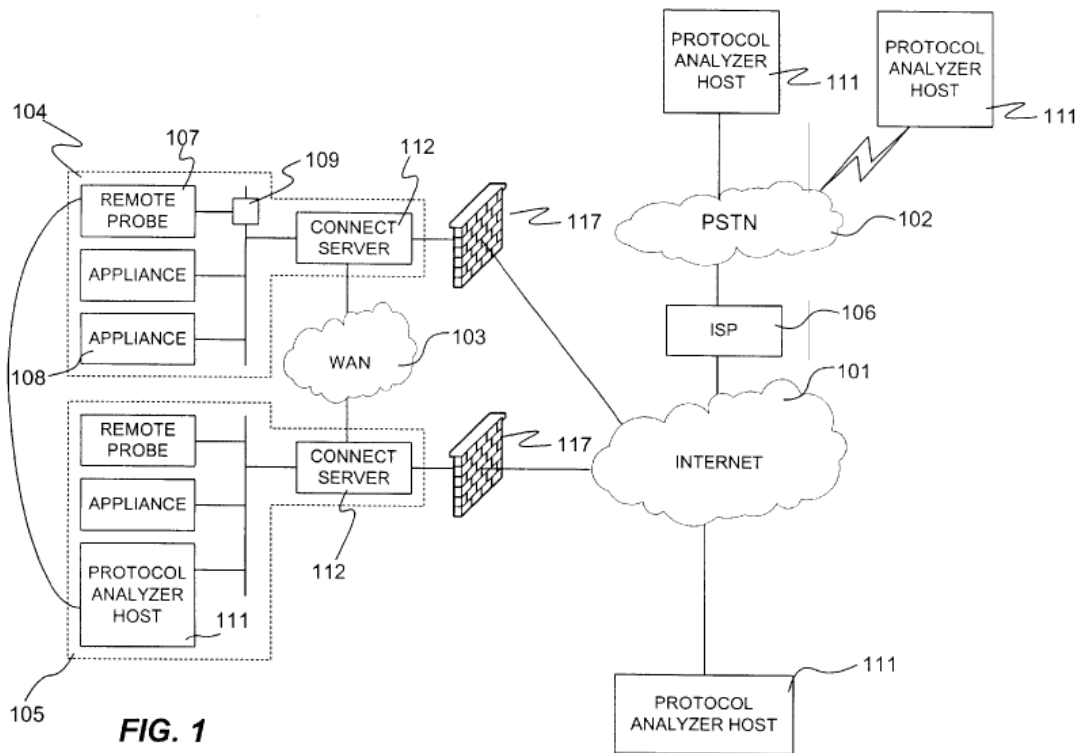


Figure 1 shows a distributed protocol analysis system according that includes a variety of interconnecting components, including Internet 101, public switched telephone network (“PSTN”) 102, wide area network (“WAN”) 103, and local area networks (“LANs”) 104 and 105. *Id.* at 3:28–44. LANs 104 and 105 include network appliances 108 (e.g., computers, printers, file servers, or mass storage) and remote probes 107. *Id.* at 3:51–54, 4:37–38. Remote probes 107 are configured to monitor network traffic and capture all or selected portions of the monitored traffic. *Id.* at 4:45–49. Each remote probe 107 includes network interfaces 201 and 202 (not shown). *Id.* at 5:6–9. Protocol analyzers 111—which can be part, and/or separate from, LANs 104 and 105—program remote probes 107, and retrieve all or selected portions of the traffic captured by remote probes 107. *Id.* at 4:50–65.

b. Overview of Walker

Walker describes a network monitoring system that comprises a network router with built-in monitoring data gathering. Ex. 1005, 3:25–27. The network router includes channels through which data pass in packets. *Id.* at 3:27–28. The network router also includes channel cards that process the data that passes through the channels within the router. *See id.* at 5:20–23. The network router additionally includes a header copier that generates copies of the data headers of data packets, and a packet generator that forms monitoring data packets from the copied headers. *Id.* at 3:28–35. The packet generator “may also add a unique identification number to the monitoring data packet to identify the channel of the router . . . from which the header copies included in the monitoring data packet were read.” *Id.* at 7:35–38.

c. Analysis

Independent Claim 1

Petitioner argues that the disclosure of Mangasarian can be read in two different ways, and refers to these alternative interpretations of Mangasarian as the “First Perspective” and “Second Perspective.” Pet. 27–28 (citation omitted).

In the First Perspective, Petitioner alleges that network interface card 202 of Mangasarian is the claimed “monitoring device,” and that the processor of remote probe 107 operating in conjunction with protocol analyzer/host 111 is the claimed “monitoring device data processor.” Pet. 27. Petitioner also alleges that the network data packets of Mangasarian correspond to the “monitoring device data” of the claims (*see id.* at 27), that

the class code information for data packets corresponds to the “archival attributes” of the claims (*id.* at 29), and that the filter and classification routines of Mangasarian correspond to the “archival profiles” of the claims (*id.* at 30). Petitioner alleges that remote probe 107 (i.e., the monitoring device data processor) uses the class code information (i.e., archival attributes) and the filter and classification routines (i.e., the archival profile) to allow data to pass into “packet buffer 208.” *Id.* at 32.

As discussed above, however, we construe “archival attributes” and “archival profiles” to not include attributes and profiles that relate to the storage of data in buffer memory. The Petition also does not provide any persuasive evidence or argument that one of ordinary skill would consider storage of information in packet buffer 208 of Mangasarian to be “archival” storage. Thus, viewing Mangasarian through the lens of Petitioner’s First Perspective, we are not persuaded that the reference teaches an “archival attribute” or “archival profile.”

In the Second Perspective, Petitioner alleges that remote probe 107 is a “monitoring device,” and that the processor of protocol analyzer/host 111 connected to the host network interface is a “monitoring device data processor.” *Id.* at 27. Petitioner also alleges that the network data packets of Mangasarian correspond to the “monitoring device data” of the claims (*see id.* at 33), that the class code information for data packets corresponds to the “archival attributes” of the claims (*id.* at 34), and that the filter, classification, and upload routines of Mangasarian correspond to the “archival profiles” of the claims (*id.*). Petitioner alleges that host 111 (i.e., the monitoring device data processor) uses the class code information (i.e., archival attributes) and upload routines (i.e., the archival profile) to “enable

intelligent selection of portions of packet buffer to be downloaded” to host 111. 35 (citing Ex. 1004, 6:3–5; Jawadi Decl. ¶¶ 78–79, 95, and Ex. B cl. 1(b))). Petitioner also asserts that the processor of host 111 “includes sufficient memory and mass storage to store and manipulate the portions of packet buffer 208 that are downloaded for analysis.” Pet. 35 (citing Ex. 1004, 6:15–26, 4:61–65; Jawadi Decl. ¶¶ 75, 78, 81, 95, and Ex. B cl. 1(b) & 1(e)).

But Mangasarian makes clear that the filter, classification, and upload routines are software that executes on remote probe 108. *See* Ex. 1004, 5:5, 5:16–33, 5:66–6:13, Fig. 2. Petitioner has not pointed to any description in Mangasarian of filter, classification, and upload routines that control how or where host 111 stores data. *See* Pet. 40. Petitioner merely alleges that the “upload routines” of Mangasarian cause network data packets to be uploaded to host 111. The uploading of data to host 111 may cause data to be stored in the “working memory (e.g., random access memory or ‘RAM’)” of the host. *See* Ex. 1004 at 2:17–19, 6:23–31. Petitioner, however, does not allege that this uploading would cause data to be stored in the separate “mass storage” of host 111. Thus, viewing Mangasarian through the lens of Petitioner’s Second Perspective, we are not persuaded that the reference teaches an “archival attribute” or “archival profile.”

For the foregoing reasons, Petitioner has not shown a reasonable likelihood that it would prevail on its obviousness challenge to claim 1.

Independent Claim 17

Claim 17 requires “archival attributes” and “archival profiles” that are used to “determine whether the monitoring device data is stored in long-term

computer storage.” Ex. 1001, 14:27–45. Petitioner does not set forth separate substantive arguments regarding these limitations of claim 17, but instead asserts that “[t]he disclosure in Mangasarian and Walker for the respective elements of claim 1 are the same for corresponding elements of claim 17.” *See* Pet. 38 (citation omitted). In particular, Petitioner’s arguments regarding the “archival attributes” and “archival profile” limitations of claim 17 are identical to those set forth by Petitioner with respect to claim 1. *See* Pet. 38–39.

Petitioner’s obviousness arguments with respect to claim 17 are deficient for the same reasons discussed above with respect to claim 1. In particular, we are not persuaded that Mangasarian, when viewed through the lens of either Petitioner’s First Perspective or Petitioner’s Second Perspective, teaches the “archival attributes” or “archival profile” limitations of claim 17. Thus, Petitioner has not shown a reasonable likelihood that it would prevail on its obviousness challenge to claim 17.

Dependent Claims 3, 4, 9, 10, and 20

Each of claims 3, 4, 9, 10, and 20 depends from claim 1 or claim 17, and thus incorporates all limitations of claim 1 or claim 17. Petitioner’s challenges to claims 3, 4, 9, 10, and 20 suffer from the same deficiencies discussed above with respect to claims 1 and 17. Thus, Petitioner has not shown a reasonable likelihood that it would prevail on its obviousness challenge to claims 3, 4, 9, 10, and 20.

IV. ORDER

Accordingly, it is

ORDERED that the Petition is *denied*, and no *inter partes* review is instituted on any claim of the '347 Patent.

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